

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4742 of 2019

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Ram Narayan Yadav Son of Late Sita Ram Yadav @ Late Sitaram Yadav
Resident of Village-Madhupur, Ward no.10, P.S.-Laukaha, Dist-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar and Ors Bihar
2. The Principal Secretary, Prohibition Excise and Registration Department, Govt. of Bihar, Patna.
3. The Excise Commissioner, Prohibition and Registration Department, Govt. of Bihar, Patna.
4. The Collector, Madhubani.
5. The District Transport Officer, Madhubani.
6. The Excise Superintendent Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kr. Bharti, Adv.
For the Respondent/s : Mr. Kumar Manish (Sc5)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 29-03-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been filed seeking provisional
release of the Motorcycle (TVS Apache RTR 180) bearing
Registration No. BR-32S-5653, Engine No. OE6LG2157568 and
Chassis No. MD634KE64G2L90859 which has been seized in
connection with Khutauna P.S. Case No. 119 of 2018 for the offence
punishable under Sections 272 and 273 of the Indian Penal Code
and Section 30(a) of Bihar Prohibition and Excise Act, 2016.



It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle in question is lying under the open sky in the police station. The seizure list reflects the seizure of 18 litres of Nepali liquor.

Having heard learned counsel for the parties and taking note of the nature of seizure made as well as the fact that the confiscation proceeding is pending, we direct that the vehicle in question be released provisionally in favour of the petitioner on production of ownership and registration with respect to vehicle in question in his name before The Collector-cum- District Magistrate, Madhubani with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the sureties shall also furnish the following affidavits/undertakings:

(i) That the vehicle in question has never been involved in any offence of similar nature in past and shall not indulge in similar offence in future:

(ii) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.

(iii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required.



(iv) Prior to release of the vehicle, a Panchanama would be got prepared by the Collector -cum- District Magistrate, Madhubani wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and the same shall be kept on record so that in future, if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama in course of trial.

The release shall be allowed within a period of 14 days from the date of submission of the sureties (one local) and the undertakings as stated above. This release would however, be subject to final order passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

brajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.04.2019
Transmission Date	

