

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9001 of 2019

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Jai Prakash Kumar S/o Yogendra Singh Res. of Vill.- Jhalshi, P.S- Sahiyara,
Distt.- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary Bihar, Prohibition and Excise Department, Bihar, Patna.
2. The Excise - Cum- Commissioner Bihar Prohibition and Excise Department, Bihar, Patna.
3. The Collector - Cum - District Magistrate Sitamarhi.
4. The Deputy Superintendent of Police Sitamarhi.
5. The Excise Superintendent Sitamarhi.
6. Assistant Sub- Inspector (A.S.I.) Excise officer, Bihar Prohibition and Excise Department, Sitamarhi.
7. The Officer- In- Charge, Sahiyara Distt.- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Devendra Kumar, Advocate
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 15-07-2019

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner prays for provisional release of Honda
Motorcycle bearing Registration No. BR30T1140 and Chassis
No. 4JC657HH7011313 which has been seized in connection
with Case No. 632 of 2018 for the offences punishable under
section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that



9 litres of Nepali liquor has been seized; the confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the Honda motorcycle and 9 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 District Magistrate, Sitamarhi with two sureties 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 prepared by the District Magistrate, Sitamarhi 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 and the undertakings as stated above. This release would however, be subject to the final orders passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2019
Transmission Date	NA

