

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5777 of 2019

Prakash Kumar Shah, aged about 36 kyears, Male, Son of Akal Dev Shah, R/o
Gulabbagh, P.S. Sadar, District Purnea, State Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department, Govt. of Bihar, Patna
2. The Divisional Commissioner, Excise Department, Purnea Division, Purnea
3. District Magistrate, Purnea
4. Superintendent of Police, Purnea
5. Officer In Charge, P.S.-Dagarua, District-Purnea

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kamlesh Kumar, Advocate
For the Respondent/s : Mr.Kumar Manish (SC5)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 22-04-2019

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

The petitioner prays for provisional release of the
Tata Pick Up Van bearing Registration No. NR-11S- 1583, Chassis
No. MAT524001DSH03811, Engine No. 497PTC 43HWY 640003,
which has been seized in connection with Dagaura P.S. Case No.
215 of 2017 for the offences punishable under Sections
272/273/34 of the Indian Penal Code and Section 30 (a) of the
Bihar Prohibition and Excise Act.



It is stated by learned counsel for the petitioner that confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 103.68 liters of IMFL.

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 yet to be initiated, 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 designated Court below with one surety along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, as the case may be, 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, if any, 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 designated Court below, 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 production of ownership/registration papers supporting the claim of the petitioner together with one surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance amount and the undertakings as stated above. This release would, however, be subject to initiation and finalization of the confiscation proceeding. The title deed papers shall remain in safe custody



of the designated Court below subject to final decision in the
confiscation proceedings.

With the observations/directions above, this writ
petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24-04-2019
Transmission Date	N/A

