

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5316 of 2019

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Bhagwan Singh @ Bhagwan Yadav aged about 61 years, Male, S/o Ram Nath
Yadav R/o Vill-Akalupur, Ward No. 1, P.S.-Dumraon, District-Buxar

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, Excise Department, Govt. of Bihar, Patna
2. The Collector-cum-District Magistrate, Buxar
3. The S.H.O. Dumraon, Buxar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar

For the Respondent/s : Mr.Kumar Manish (SC 5)

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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 : 09-04-2019

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

The petitioner prays for provisional release of
Escort Power Track Tractor bearing Chasis No. B3172015,
Engine No. E3190992 purchased in the name of his son and
Motorcycle bearing Registration No. BR-44D-3529, Chasis
No. MD2A52CZ9DPD12338, Engine No. JEZPDD42575,
which have been seized in connection with Dumraon P.S.
Case No. 5 of 2018 registered for the offences punishable
under Sections 30(a) and 47 of the Bihar Prohibition and
Excise Act.



It is stated by learned counsel for the petitioner that petitioner has not received any notice in connection with initiation of confiscation proceeding. He further submits that vehicles of the petitioner are lying in the police station. The seizure list reflects seizure of 60.480 liters of I.M.F.L. from the Tractor and 17.280 liters of I.M.F.L. from the motorcycle in question.

Having heard learned counsel for the parties and taking note of the nature of seizure made, we direct that the Tractor in question be released provisionally in favour of the petitioner on production of ownership and registration with respect to vehicle in question in the name of his son 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.

As regards the prayer for release of the motorcycle in question, considering the submissions of the parties and the nature of seizure made, we direct that the Motorcycle 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 two sureties to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties and the bank guarantee or the original title deed, as the case may be, shall also furnish the following affidavits/undertakings:

(i) That the vehicles in question have 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 vehicles during the pendency of the confiscation proceeding, as and when initiated, and shall not alienate the vehicle during this period.

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

(iv) Prior to release of the vehicles, the designated Court below would get prepared a Panchanama wherein the photograph of the vehicles 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 sureties, the bank guarantee and/or the title deeds, as the case may be, and the undertakings as stated above.

This release of the vehicles would, however, be subject to the initiation and finalization of confiscation proceeding. The title deed papers, if produced, shall remain in safe custody of the court below subject to initiation and finalization of the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.04.2019
Transmission Date	NA

