

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4714 of 2019

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Arvindra Ram @ Arbind Ram aged about 34 years, male, Son of Dipnarayan Ram, Resident of Village- Itadhi, P.S.- Sonhan, District- Kaimur at Bhabua
... .. Petitioner/s

Versus

1. The State of Bihar through Secretary of the Excise Department, Bihar at Patna
2. The Collector cum District Magistrate, Kaimur at Bhabua
3. The Superintendent of Police, Kaimur at Bhabua
4. The Officer In-charge of Police Station, Bhagwanpur, District- Kaimur at Bhabua

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey
For the Respondent/s : Mr. Anil Kr. Sinha (GA1)

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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.

The petitioner prays for provisional release of the motorcycle bearing Registration No.BR45H 2105, Engine No. JC73ET1079947, Chasis No. ME4JC736EHT001722, which has been seized in connection with Bhagwanpur P.S. Case No. 209 of 2018 for the offences punishable under Section 30 (a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle is lying



under the open sky in the police station. The seizure list reflects the seizure of 29.340 liters of I.M.F.L.

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, Kaimur at Bhabua 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 got prepared by the Collector-cum-District Magistrate, Kaimur at Bhabua 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 finalization of the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10/04/2019
Transmission Date	NA

