

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No. 906 of 2019

In
Civil Writ Jurisdiction Case No.12559 of 2018

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Naresh Mistri S/o Late Ramanand Mistri Resident of Mohalla- Janakpur
Near Mahadeo Asthan, Police Station- Muffasil, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar, Patna
2. The Principal Secretary Department of Excise and Prohibition, Govt. of Bihar, Patna
3. The District Magistrate-cum-Collector Gaya
4. The Superintendent of Police Gaya
5. The S.H.O. Delha Police Station, Distt.- Gaya

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rabindra Kumar Priyadarshi, Adv.
For the Opposite Party/s : Mr. Anil Kumar Sinha (GA 1)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 24-07-2019 Heard learned counsel for the petitioner and the State.

This application has been filed for modification of our order dated 6.7.2018 passed in C.W.J.C. No.12559 of 2018 by which, while directing provisional release of the vehicle (tempo) in question, we had imposed one of the conditions whereunder the petitioner is required to furnish a bank guarantee to the satisfaction of the District Magistrate-cum-Collector, Gaya.



Learned counsel for the petitioner has drawn our attention towards Annexure 2 to the main writ petition to submit that, in fact, one day prior to the seizure of the liquor from the vehicle a case of theft of the vehicle was registered by the petitioner. It is submitted that the petitioner is very poor. As he is only having this tempo as the means of his livelihood, he is unable to submit the bank guarantee.

Learned counsel for the State opposes the application and submits that the condition imposed should not be modified so that the interest of the State is protected.

Having heard learned counsel for the parties and after going through the records, we find that one day before the seizure of the illicit liquor from the tempo in question, a case for theft of the vehicle was registered. We further find that even the confiscation case which is stated to have been initiated has not been concluded for over one year.

Therefore, finding it a case of gross injustice wherein confiscation proceeding has not been concluded so far, we direct that in place of bank-guarantee in case the petitioner furnishes sureties to the satisfaction of the District Magistrate-cum-Collector, Gaya to the extent of the value of the tempo as indicated in the insurance document and on complying with the



other conditions, the tempo in question shall be released in
favour of the petitioner forthwith.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/-

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