

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4838 of 2019

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Lalu Sah Son of Late Gokhul Sah Resident of Village- Bediban Madhuban,
P.S.- Pipra, District- East Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar and Ors. through Director General of Police Government of Bihar, Patna
2. The Director General of Police, Government of Bihar, Patna.
3. The District Magistrate, East Champaran, Motihari.
4. The Superintendent of Police, East Champaran, Motihari.
5. The Officer In Charge of Pipra, District- East Champaran, Motihari
6. The Commissioner Excise Dept. Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the Respondent/s : Mr. Anil Kr. Sinha, GA-1.

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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 vehicle
(Bolero Pick Up) bearing Registration No. BR-33GA-3258, Engine
No. GHD5C67941, Chasis No. MA1ZN2GHKD6C73561 which has
been seized in connection with Pipra P.S. Case No. 130 of 2018 for
the offence punishable under Sections 414, 272, 273 and 120(B) of
the Indian Penal Code and Sections 30(a), 38(1), 41(2) of Bihar
Prohibition and Excise Act, 2016.



It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle in question is lying under the open sky in the police station. The seizure list reflects the seizure of 795 litres 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 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, East Champaran, Motihari 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 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 Confiscation Authority i.e. District Magistrate, East Champaran, Motihari 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 submissions of the one surety along with the Bank Guarantee and the undertakings as stated above. This release, however, would be subject to the final order passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Brajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.04.2019
Transmission Date	

