

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.358 of 2019

Arising Out of PS. Case No.-2 Year-2019 Thana- SARE District- Nalanda

Shiv Kumar Son of Bhusho Chaudhary @ Bhasho Chaudhary Resident of
Village - Amba Bigha, P.S.- Sare, Distt - Nalanda. At present resident of
Village - Narayanpur, P.S.- Barbiga, Distt - Shiekhpora.

... .. Petitioner/s

Versus

1. State Of Bihar Through The Principal Sectt. Bihar Excise Prohibition Deptt.
Bihar, Patna.
2. The Principal Secretary, Bihar Excise and Prohibition Department, Bihar,
Patna.
3. The District Magistrate Nalanda, District - Nalanda. Bihar
4. The Superintendent of Police, Nalanda Distt - Nalanda. Bihar
5. The Thana - In-Charge, Police Station Sare, District - Nalanda. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rabindra Prasad Singh, Adv
For the Respondent/s : Mr.Parmanand Prasad, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

2 04-04-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner prays for provisional release of the
vehicle bearing **Engine No. JC58E-T-7077203, Chasis No.**
ME4JC58EJJT077132 which has been seized in connection
with **Sare P.S. Case No. 02 of 2019** for the offence punishable
under Section 30(A) 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 3.5 litres of country made liquor.

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, Nalanda**, with two sureties (one local) 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 nature 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 Confiscating Authority, 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 final order passed in the confiscation proceeding.

With the aforesaid observation, this petition is allowed.

(S. Kumar, J)

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