

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7543 of 2019

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Santosh Patel @ Santosh Kumar Son of Baliram Patel @ Balram Patel
Resident of village- Bhitaha Mathiya Nizamat, P.S.- Bairiya, District- West
Champaran at Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise Department,
Bihar, patna.
2. The District Magistrate West Champaran, Bettiah.
3. The Superintendent of Police West Champaran Bettiah.
4. The S.H.O. Bettiah Muffasil.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vibhakar Kumar
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 16-05-2019

Learned counsel for the petitioner is permitted to
make necessary corrections of the description of the vehicle in
the synopsis.

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

The petitioner prays for provisional release of the
vehicle (Duster Renault India Pvt.Ltd.) bearing Registration No.
BR24N-1443 together with Oppo mobile phone bearing Sim
number 9576132400/9262825493 which has been seized in
connection with Bettiah Mufassil P.S. Case No. 586 of 2018 for
the offences punishable under Section 30(a),31,35,38,41,56(D)
of the Bihar Prohibition and Excise Act, 2016.

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 36 litres of India made foreign 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 while the mobile phone in question be released unconditionally, let 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, West Champaran, Bettiah 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 further.

(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 prepared by the District Magistrate, West Champaran, Bettiah 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 of the vehicle and the mobile phone 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 of the vehicle would however, be subject to finalization of the confiscation proceeding if any.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.06.2019
Transmission Date	NA

