

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7042 of 2019

Sanjay Kumar Son of Ramashray Singh Resident of Sultanpur, P.S.-Mahnar,
District Vaishali-844506

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Vaishali at Hajipur
3. The Superintendent of Police Vaishali at Hajipur
4. The Deputy Superintendent of Police, Vaishali at Hajipur
5. The Officer-In-Charge, Tisiauta Police Station, District Vaishali at Hajipur
6. The District Excise Officer, Vaishali at Hajipur

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Surendra Kishore Thakur
For the Respondent/s : Mr.Anil Kr. Sinha (Ga1)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 17-05-2019

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

The petitioner prays for provisional release of the
vehicle (Bolero) bearing Registration No. BR31P-8737 which
has been seized in connection with Tisiauta Case No. 10 of 2018
for the offences punishable under Section 30(a) 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 186 litres of Indian 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 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, Vaishali at Hajipur 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 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, Vaishali at Hajipur 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 production of ownership/registration papers supporting the claim of the petitioner together with one surety along with the Bank Guarantee or the original title deed of immovable property situated in the district, as the case may be, to the extent of the value of the vehicle as indicated in the insurance document and the undertakings, as stated above. This release would, however, be subject to finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the confiscating authority subject to final decision in the confiscation proceedings.

The writ petition is allowed.

(Jyoti Saran, J)

Bibhash

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

(Anjani Kumar Sharan, J)

