

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6317 of 2019

Subhash Kumar @ Subhash Kumar Yadav, aged about 34 years, Gender-Male, Son of Bhupendra Yadav @ Bhupendra Prasad Yadav, R/o Village-Khonaha, Ward No.12, Satar Kataiya, P.S. Bihra, District-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Excise Department, Saharsa Division, Saharsa.
3. The District Magistrate, Saharsa
4. The Superintendent of Police, Saharsa.
5. The Officer-in-Charge, Bihra Police Station-Saharsa

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Krishna Kumar, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 07-05-2019

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

The petitioner prays for provisional release of the YAMAHA Motor Cycle SZRR V20 bearing Registration No. NA, Engine No. G3J5E0052372, Chasis No. ME1RG4517JOO 52368, which has been seized in connection with Saharsa Special Case No. 465 of 2018 for the offences punishable under Sections 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 3 liters of country 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, Saharsa 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 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 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 District Magistrate, Saharsa 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 of the vehicle would, however, be subject to finalization of the confiscation proceeding.

With the observations/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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