

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6186 of 2019

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Dulesh Kumar, Aged about 32 years, Gender-Male, S/o Chandeshwar Prasad,
Resident of Village- Gandhi Nagar, Gobh Tal, P.S. Danapur, Distt. Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Excise Dept., Govt. of Bihar.
2. The District Collector Cum District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The Police Inspector Cum S.H.O. Danapur Police Station, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr.Kumar Manish (SC5)

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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 : 02-05-2019

No one appears on behalf of the petitioner but learned
counsel for the State is present.

The petitioner prays for provisional release of the
Scooty/Motorcycle bearing Registration No. BR01CG-7096,
Chasis No. MBLJF32AEEGK05632, Engine No.
JF32AAEGK11106, which has been seized in connection with
Danapur P.S. Case No. 328 of 2017 for the offences punishable
under Sections 30 (a), 37 (b)/38/41 (i) of the Bihar Prohibition
and Excise Act, 2016.

It is stated by learned counsel for the petitioner that



confiscation proceeding is pending. It is further stated that the seizure list reflects the seizure of 11.250 liters 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 Collector cum District Magistrate, Patna 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 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 District Collector cum District Magistrate, Patna 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)

amit/nasimul

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.05.2019
Transmission Date	N/A

