

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6038 of 2019**

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Kundan Kumar, age-28 years, Male, S/o Shambhu Prasad Yadav, R/o  
Nayatola, P.S.- Katihar, Distt.- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Excise Deptt. Patna.
2. The District Magistrate, Katihar.
3. The Superintendent of Police, Katihar.
4. The S.H.O., Katihar Nagar, Police Station, Katihar.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Sanjeev Kumar Singh  
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 : 23-04-2019**

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

The petitioner prays for provisional release of the vehicle  
(Motorcycle) bearing Registration No. BR11W-6311, Engine No.  
JA06EJFGD04626, Chassis No. MBLJA06AMFGD03070, which  
has been seized in connection with Katihar Nagar P.S. Case No. 132  
of 2019 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  
750 ml. of 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 Magistrate, Katihar 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 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 Magistrate, Katihar, 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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