

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8001 of 2019

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Ravindra Ray Son of Jamira Ray @ Jamirilal Ray Resident of Village- Sariya,
P.S.- Rajepur, District- East Champaran. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, East Champaran at Motihari.
3. The Superintendent of Police, East Champaran at Motihari.
4. The Officer-In-Charge, Rajepur Police Station, District- East Champaran.
... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar
For the Respondent/s : Mr. Vivek Prasad (Gp7)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 28-06-2019

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

The petitioner prays for provisional release of the Hero
Honda Splender Pro Motorcycle bearing registration No. BR06X3580,
Engine No. HA10EHA9M02668, Chassis No.
MBLHA10ADA9M03613, which has been seized in connection with
Rajepur Case No. 49 of 2018 for the offences punishable under sections
272, 273 and 414 of the Indian Penal Code and Section 30(a) of the
Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that one litre
of country made liquor has been seized; the confiscation proceeding is
yet to be initiated and the vehicle is lying under the open sky in the
police station. The seizure list supports the seizure of the motorcycle
and one litre of country made liquor.



Paragraph 3 of the writ petition informs that the petitioner is not the registered owner of the vehicle though he claims to have purchased the vehicle.

Having heard learned counsel for the parties and considering the circumstances existing where the petitioner is not the registered owner as well bearing note of the nature of seizure made as well as the fact that the confiscation proceeding is yet to be initiated, we direct that the vehicle in question be released provisionally in favour of the registered owner on production of ownership and registration with respect to vehicle in question in his name before the designated court below with two sureties to the extent of the value of the vehicle as indicated in the insurance document. The registered owner 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 registered owner 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 registered owner 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 designated court below 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, which would however be subject to initiation and finalization of the confiscation proceeding, if any.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Sushma/prakash

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

