

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6598 of 2019

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1. Raghuvar Yadav @ Raghubar Yadav, aged about 28 years, Male, S/o Karmdev Yadav, Vill.- Belaunja P.O.- Nauhatta, Distt.- Rohtas at Sasaram
 2. Munna Yadav, aged about 26 years, Male, S/o Late Vihari Yadav, Vill.- Daranagar, P.O.- Nauhatta, Distt.- Rohtas at Sasaram

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration Excise and Prohibition Department, Govt. of Bihar, Patna
2. The District Magistrate cum Confiscation Officer, Rohtas at Sasaram
3. The Superintendent of Police, Rohtas at Sasaram
4. The Station House Officer, Police Station- Dehri (Indrapuri), Distt.- Rohtas at Sasaram

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Raghunandan Kumar Singh, Advocate
For the Respondent/s : Mr.Kumar Manish (SC5)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 10-05-2019

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the state.

The petitioners pray for provisional release of the Hero Glamour Motorcycle bearing Registration No. BR-24S-4750, Chasis No. MBLJA06AMG9D17385, Engine No. JA06EJG9D17136 of petitioner no. 1 and Hero Glamour Motorcycle bearing Registration No. BR-24V-5449, Chassis No. MBLJAR026HGF07544, Engine No. JA06FRHGE42060 of petitioner no. 2, which have been seized in connection with Dehri (Indrapuri) P.S. Case No. 1043 of 2018 for the offences punishable under Sections 30(a)/34 of the Bihar Prohibition and Excise Act.



It is stated by learned counsel for the petitioners 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 country liquor each.

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 two petitioners on production of ownership and registration with respect to vehicle in question in their respective name before the District Magistrate-cum-Confiscation Officer, Rohtas at Sasaram with two sureties each, to the extent of the value of the vehicle as indicated in the insurance document. The two petitioners while submitting the sureties shall also separately and individually 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-cum-Confiscation Officer, Rohtas at Sasaram, 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)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22-05-2019
Transmission Date	N/A

