

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6824 of 2019

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Shambhu Kumar @ Shambhu Kumar Gupta, aged about 29 years (Male), Son
of Ashok Sah, Resident of Village- Koirigaon, P.S.- Barharia, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate cum Collector Gopalganj.
3. The Superintendent of Police Gopalganj.
4. The Station House Officer (S.H.O.) Kuchaikote Police Station, Gopalganj.
5. The Investigating Officer of Kuchaikote P.S Case No. 267/18, Kuchaikote
Police Station, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shyama Kant Singh, Adv.
For the Respondent/s : Mr. Anil Kr. Sinha (GA1)

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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 : 18-06-2019

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

The petitioner prays for provisional release of the Scorpio
bearing Registration No. BR29PA0489, Engine No. SJF4E11299,
Chassis No. MA1TA2SJXF2E34464, which has been seized in
connection with Kuchaikote P.S. Case No. 267 of 2018 for the
offences punishable under Sections 30 (a) (b) (c) /38/ 41(a) (b) 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 501.120 liters 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-cum-Collector, Gopalganj 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-cum-Collector, Gopalganj, 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 production of ownership/registration papers supporting the claim of the petitioner together with one surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance amount and the undertakings as stated above. This release of the vehicle would, however, be subject to finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the Confiscating Authority subject to final decision in the confiscation proceedings.

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
Uploading Date	25.06.2019
Transmission Date	N/A

