

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6371 of 2019

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Ajit Kumar Yadav, aged about 24 years, Gender, Male, Son of Khago Yadav,
Resident of Village Manjhawan Ghetan, P.S.- Gidhaur, District- Chatra,
Jharkhand- 825408.

... .. Petitioner/s

Versus

1. The State of Bihar through Excise Commissioner, New Secretariat, Patna.
2. The District Magistrate, Gaya.
3. The Superintendent of Police, Gaya.
4. The Excise Inspector, Excise, Sherghati, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mrs.Archana Sinha @ Archana Shahi, Advocate
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 : 07-05-2019

An earlier release order of this Court arising from C.W.J.C. No.11538 of 2018 (Gaurav Kumar vs. The State of Bihar and others) at Annexure-2 has not taken its effect because the petitioner of the said case was to produce the registration papers in his name and since the said petitioner was not the owner of the vehicle, which has constrained the present petitioner to come before this Court for the same relief, i.e. release of the Kwid Car bearing Registration No. JH02AT7893.

It is submitted by Ms. Archana Sinha, learned counsel for the petitioner that for a recovery of 81 liters of IMFL that the



vehicle has been seized on 18.05.2018 and for the last one year it is lying under the open sky. It is submitted that since the sale made by the petitioner in favour of Vaibhav Kumar, the brother of the petitioner in the earlier case, was not registered that the owner of the vehicle is before this Court and prays for release of his vehicle and since there is already an order for release of the vehicle in question passed by this Court, District Magistrate, Gaya may be directed to ensure the release of the Car.

Having heard learned counsel for the parties and taking note of the nature of seizure made, the earlier order passed at Annexure-2 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, Gaya with one (local) 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, Gaya, 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 (local) 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)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17-05-2019
Transmission Date	N/A

