

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6662 of 2019

Prakash Kumar Singh, Son of Vishwanath Singh, aged about 26 years (Male),
Resident of Village-Mahugai, P.S-Hariharganj, District-Plamu (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary, Excise Department, Bihar, Patna.
3. The District Magistrate, Gaya.
4. The Sr. Superintendent of Police, Gaya.
5. The Town Dy. S.P., Gaya.
6. The Officer-in-Charge, Magadh University Police Station, Gaya.
7. The Assistant Commissioner (Excise), Gaya.
8. The Sub Inspector (Excise), P.S. Magadh University, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Sinha, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP7)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 14-05-2019

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

The petitioner prays for provisional release of the
Mahindra Pick-up Van bearing Registration No. BR26K-9858,
which has been seized in connection with Excise Case No. 110
of 2018 for the offences punishable under Section 30 (A) of the
Bihar Prohibition and Excise Act and Sections 2(i), 3/5, 13 of
the Bihar Mahua Flower Rules, 2006.



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 1920 kg. of Mahua Flower.

We take note of the fact that the issue whether or not Mahua Flower on its own is capable of seizure is the subject matter of writ petition arising from C.W.J.C. No. 23163 of 2018, which is coming up for consideration on 24.06.2019.

Let the State seek instruction and file counter affidavit on such issue.

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, 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	21-05-2019
Transmission Date	N/A

