

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6610 of 2019

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Vibhishan Kumar, aged about 20 years (Male), S/o Raghu Yadav, R/o
Mohalla-Ward No. 24, Baluwahi Khagaria, P.S. Khagaria, District-Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department at Patna
2. The Excise Commissioner of Munger at Munger
3. The District Collector of Khagaria at Khagaria
4. The Superintendent of Police, Khagaria at Khagaria

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Kumar, Advocate
For the Respondent/s : Mr.

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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 : 15-05-2019

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

This application has been filed seeking provisional
release of the E-rickshaw bearing Registration No. NP-KHPN
No.488, which has been seized in connection with Khagaria P.S.
Case No. 849 of 2018 registered under Section 30(a) of the
Bihar Prohibition and Excise Act and Sections 272, 273 of the
Indian Penal Code.

Learned counsel for the petitioner submits that for
recovery of 23 liters of Cough Syrup, the E-rickshaw in



question has been seized because according to the respondent, it is capable of being used as a substitute for an intoxicant. It is submitted that there is no information about confiscation proceeding.

Learned counsel for the State has not been able to clarify that whether or not the cough syrup so seized comes in the prohibited category of intoxicant or spirit or liquor or fermented liquor or illicit liquor under the Bihar Prohibition and Excise Act, 2016.

Having heard learned counsel for the parties and in the given facts and circumstances where no confiscation proceeding is presently pending and the seizure is of cough syrup, let the vehicle in question be released in favour of the petitioner on the petitioner's producing the document of ownership and registration 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 and an undertaking that he will not create third party rights during pendency of the proceeding.

The release shall be allowed within a period of 14 days from the date of production of ownership papers before the court below with the sureties along with the undertaking as stated above. This release, however, would be subject to the



final order passed in the confiscation proceeding, if any.

The petitioner shall be at liberty to raise the issues whether or not the seized goods comes within the prohibitory jurisdiction of ‘the Act’.

The writ petition is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18-05-2019
Transmission Date	N/A

