

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7187 of 2019

=====

Pawan Kumar Jaiswal aged about 30 years, Male, Son of Suryanath Prasad @
Suryanath Prasad Jaiswal, R/o Village-Bhabhua Ward No. 1, P.S.-Bhabhua,
District-Kaimur at Bhabhua.

... .. Petitioner

Versus

1. The State of Bihar through Secretary of the Excise Department, Bihar at Patna.
2. The Collector cum District Magistrate Kaimur at Bhabhua.
3. The Superintendent of Police Kaimur at Bhabhua.
4. The Officer In-Charge of Police Station Chainpur, District-Kaimur at Bhabhua.

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey, Adv.
For the Respondent/s : Mr. Vikash Kumar, SC-11.

=====

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

Date : 16-05-2019

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

The petitioner prays for provisional release of the
Apache motorcycle bearing registration No. BR 45H 4809, which
has been seized in connection with Chainpur P.S.Case No. 48/19
for the offences punishable under sections 30(a), 37(1)(2) of the
Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that
17.290 litres of IMFL has been seized; the confiscation proceeding
is yet to be initiated and the vehicle is lying under the open sky in



the police station. The seizure list supports the seizure of the motorcycle and 17.290 litres 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 yet to be initiated, 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 designated court below with two sureties to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the sureties 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 further.

(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 prepared by the designated court below 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, which would however be subject to initiation and finalization of the confiscation proceeding, if any.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.06.2019
Transmission Date	NA

