

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7170 of 2019**

Shiv Shankar Rajbhar aged about 47 years (M) Son of Baijnath Rajbhar  
Resident of Vill.-Mahdah, P.S.-Buxar (M), Dist.-Buxar.

... .. Petitioner

Versus

1. The State of Bihar, through Principal Secretary, Excise and Prohibition Govt. of Bihar, Patna.
2. The Director General of Police, Govt. of Bihar, Patna.
3. The District Magistrate-Collector, Buxar.
4. The Superintendent of Police, Buxar.
5. The S.H.O. Itarhi Police Station, Buxar.

... .. Respondents

**Appearance :**

For the Petitioner/s : Mr. Dr. Kamal Deo Sharma, Adv.  
For the Respondent/s : Mr. Anil Kumar Sinha, GA-1.

**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 TVS  
APACHI motorcycle bearing registration No. BR44J-8211, which  
has been seized in connection with Itarhi P.S. Case No. 304 of  
2018 for the offences punishable under provisions of the Bihar  
Excise and Prohibition Act, 2016.

It is stated by learned counsel for the petitioner that 36  
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 36 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 designated court below 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)**

Anjula/Surendra

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| AFR/NAFR          | NAFR       |
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