

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9549 of 2019

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Ruplal Ray @ Ruplal Prashad Yadav S/o Nathuni Ray Vill.- Chitariya, P.s.-
Kotwa, Distt.- East Champaran at Motihari

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Departement,
Bihar, patna
2. The District Magistrate East Champaran at Motihari
3. The Superintendent of Police East Champaran at Motihari
4. The S.H.O. Excise P.s.- Kalyanpur, East Champaran at Motihari

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vikram Jeet, Advocate
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 18-07-2019

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

The petitioner prays for provisional release of the
motorcycle (Hero Honda) bearing Registration No. BR05D3594
Chassis No. 07C16F46113 Engine No. 07B15E23630 which has
been seized in connection with Kalyan Pur P.S. Case No. 158 of
2018 for the offence punishable under section 30(a) of Bihar
Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that
9.750 litres of IMFL has been seized; the confiscation



proceeding is pending and the motorcycle is lying under the open sky in the police station. The seizure list supports the seizure of the motorcycle and 9.750 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 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, East Champaran at Motihari 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 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 prepared by the District Magistrate, East Champaran at Motihari 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. This release would however, be subject to the final orders passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	31.07.2019
Transmission Date	

