

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7595 of 2019

Sairun Nisha W/o Nasim Ahmad Resident of Vill Shekh Dumari, P.S. Sonpur,
District-Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Saran at Chapra.
2. The Superintendent of Police, Saran at Chapra.
3. The Deputy Superintendent of Police, Marhowra, Saran.
4. The Station House Officer Sonpur Saran.
5. The Superintendent of Excise, Saran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar
For the Respondent/s : Mr.Anil Kumar Sinha (Ga1)

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

Leave is granted to make necessary corrections in
paragraph 1 of the writ petition as regarding quantity seized.

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

The petitioner prays for provisional release of the
vehicle (Tempoo) bearing Registration No. BHR1BX6207,
Chasis No.MA1LR2FTSH3D25705, Engine No.R7D2870220
which has been seized in connection with Sonpur P.S. Case No.
627 of 2018 for the offences punishable under Section 420/34 of
the Indian Penal Code and Section 30(a) of the Bihar
Prohibition and Excise Act, 2016.



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 47.760 litres of India made foreign liquor.

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, Saran at Chapra with one 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 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 District Magistrate, Saran at Chapra 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 one surety along with a Bank Guarantee or the original title deed as the case may be, and the undertakings as stated above. The deposit of the title deed and the release however, would be subject to the final order passed in confiscation proceeding.

The writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.06.2019
Transmission Date	NA

