

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7633 of 2019

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Mina Devi W/o Nand Kumar Chaudhary R/o Vill-Semariya (Kesopur), P.S.-
Barhara, Dist-Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Govt. of Bihar, Patna
2. The Commissioner Patna Division, Patna
3. The Collector Bhojpur at Ara, Dist-Bhojpur
4. The S.H.O. of Barhara Police Station Dist-Bhojpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajani Ranjan Pd. Singh
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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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 : 16-05-2019

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

The petitioner prays for provisional release of the
vehicle (motorcycle) bearing Registration No. BR03W1187,
Chasis No.MD2A76AY2HRG87347, which has been seized in
connection with Barahra Case No. 94 of 2019 for the offences
punishable under 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 50 litres of Mahua 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, Bhojpur 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, Bhojpur 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 and the undertakings as stated above. This release however, would be subject to the final order passed in confiscation proceeding. The title deed if deposited, shall remain in safe custody of the confiscating authority.

The writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.05.2019
Transmission Date	NA

