

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9278 of 2019

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Arun Purve Son of Late Ram Prasad Purve Resident of Village- Tulapatganj,
P.S. Sangram (O.P.), District- Madhubani. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Superintendent of Police, Madhubani.
4. The Excise Superintendent of Police, Madhubani.
5. The Excise Officer-in- Charge, Muzaffarpur.
6. The Officer-in- Charge Phoolparash P.S. Madhubani.

.....Respondents

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Appearance :

For the Petitioner/s : Mr.Uday Prakash Sharma, 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 : 16-07-2019

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

The petitioner prays for provisional release of the
Belaro Pickup Vehicle bearing Registration No. BR06GA2492
Chassis No. MA1ZN2GHKB1M65047 and Engine no.
GHB1M93689 which has been seized in connection with Phulparas
P.S. Case No. 168 of 2018 for the offences punishable under sections
272 and 273 of the Indian Penal Code and 30(a) (d) 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 454.500 litres of country liquor and 297.720 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, Madhubani 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 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, Madhubani 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 of immovable property situated in the district, as the case may be, to the extent of the value of the vehicle as indicated in the insurance document and the undertakings, as stated above. This release would, however, be subject to finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the confiscating authority subject to final decision in the confiscation proceedings.

The writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

