

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8518 of 2019**

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Chandan Kumar Chouhan @ Chandan Chouhan @ Chandan Kumar Chauhasn, Son of Shri Ramaklbal Chauhan @ Ramaekaval Chauhan, Resident of Village- Mahuari Tola Bandh, P.S.- Nabinagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-Cum- Collector, Aurangabad.
3. The Senior Superintendent of Police, Aurangabad.
4. The Excise Superintendent, Aurangabad.
5. The Sub Inspector, Nabinagar Police Station, District- Aurangabad.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Vishwa Ranjan Choudhary, Adv.  
For the Respondent/s : Mr. Kumar Manish, SC-5

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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 : 08-07-2019**

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

The petitioner prays for provisional release of the Honda Shine motorcycle bearing registration No. BR26F2939, Engine No.JC36E7430852, Chasis No.ME4JC36KMC7148191, which has been seized in connection with Nabinagar P.S. Case No.38 of 2019 for the offences punishable under sections 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 66 litres of country made liquor 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 66 litres of country made 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 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 papers with respect to vehicle in question before the designated court below 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 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 production of ownership/registration papers supporting the claim of the petitioner together with one surety along with the Bank Guarantee or title deed of immovable property situated in the district, to



the extent of the value of the vehicle as indicated in the insurance document and the undertaking, as stated above. This would, however, be subject to the final order passed in the confiscation proceeding. The title deed papers shall remain in safe custody of the designated court below subject to final decision in the confiscation proceedings.

With the observations above, this writ petition is allowed.

**(Jyoti Saran, J)**

**( Partha Sarthy, J)**

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| CAV DATE          | NA         |
| Uploading Date    | 11.07.2019 |
| Transmission Date | NA         |

