

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8395 of 2019

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Bindhyachal Tiwari @ Mintu Tiwari Son of Sri Basudev Tiwari Resident of
Village-Rajdiha, P.S.-Dumraon, District-Buxar. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Prohibition and Registration Department, Government of Bihar, Patna.
2. The Collector Cum District Magistrate, Buxar.
3. The Superintendent of Excise, Buxar.
4. The Superintendent of Police, Buxar.
5. The Officer-In-Charge, Dumraon P.S., District-Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Pradhan, Advocate
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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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 : 02-07-2019

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

The petitioner prays for provisional release of the
Apachi Motor Cycle bearing Registration No. BR44C7733
Chassis No. MD634KE67E2K65061 Engine No.
OE6KE2054140 which has been seized in connection with
Dumraon P.S. Case No. 177 of 2018 for the offences punishable
under section 30(A), 41(1) of the Bihar Prohibition and Excise
Act, 2016.

Learned counsel for the petitioner submits that
though the total recovery of liquor is about 360 litres but in so
far as the motorcycle in question is concerned, 36 litres of IMFL



has been recovered. It is further submitted that the confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the Apachi motorcycle and 36 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, Buxar 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, Buxar 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 initiation and finalization of the confiscation proceeding if any.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.07.2019
Transmission Date	NA

