

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8118 of 2019

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Rakesh Kumar Sah @ Rakesh Kumar S/o Surendra Prasad Sah R/o Belahi
Tola, Ward No. 24, P.S.-Forbesganj, District-Araria
... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Bihar, Patna
2. The Collector cum District Magistrate Araria
3. The Superintendent of Police Araria
4. The S.H.O. Jogbani (Bathnaha) Police Station, District-Araria
... .. Respondent/s

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Appearance :

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

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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 : 28-06-2019

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

The petitioner prays for provisional release of the
motorcycle bearing registration No. BR38J-2117, Engine No.
FF4HF1033078, Chassis No. MD6255F42F1H47873 together
with cash, which has been seized in connection with
Jogbani(Bathnaha) P.S. Case No. 67 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 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, 180 ml. of Nepali liquor, cash of Rs. 83,520/- (Indian Currency) and cash of Rs. 1465/- (Nepali currency).

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 the designated court below that the above stated cash (Indian as well as Nepali Currencies) should be released unconditionally and in so far as vehicle in question is concerned, it should 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 designated court below 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 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 submission of the sureties and the undertakings as stated above, which would however be subject to initiation and finalization of the confiscation proceeding, if any.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

sushma/prakash

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

