

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8875 of 2019

Abhay Institute of Medical Science, Hario, Gaya Dhobi Road, District-Gaya,
through its Medical Director Dr. Rahul Gautam, aged about 41 years, Gender-
Male, Son of Dr. B.K.Gautam, House No.-66, A.P. Colony, P.S.-Rampur,
District-Gaya. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
 2. The Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
 3. The District Magistrate, District-Gaya.
 4. The Senior Superintendent of Police, District-Gaya.
 5. The Excise Inspector, Liquor Prohibition, Sadar Division, District-Gaya.
- Respondent/s

Appearance :

For the Petitioner/s : Mr.Satyavrat Verma
For the Respondent/s : Mr.Vivek Prasad (Gp7)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 12-07-2019

Counter affidavit is being filed, let it be taken on
record.

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

The petitioner prays for provisional release of the
Chevrolet Tavera (Ambulance) bearing Registration No.
BR02PA2560, Chassis No. MA6ABCL5GGH007086, Engine
No. JR209282, which has been seized in connection with Gaya
Excise Case No. 113 of 2019 for the offences punishable under
Sections 30(a) and 56(b) of the Bihar Prohibition and Excise
Act, 2016.



It is stated by learned counsel for the petitioner that one litre of beer inside the vehicle has been seized; He further admits that 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 vehicle and one litre of beer.

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, Gaya 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, Gaya 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 finalization of the confiscation proceeding if any.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.7.19
Transmission Date	NA

