

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8371 of 2019

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Kailash Mandal Son of Late Jayanti Mandal Resident of Village-Lattipur,
Police Station-Bihpur, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The Divisional Commissioner, Excise, Bhagalpur, Bihar.
3. The Collector-cum-District Magistrate, Bhagalpur, Bihar.
4. The Superintendent of Police, Naugachia, Bhagalpur, Bihar.
5. The Excise Superintendent, Bhagalpur, Bihar.
6. The Officer Incharge, Dholbazza (Kadwa) Police Station Naugachia,
Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Thakur
For the Respondent/s : Mr.Kumar Manish (Sc5)

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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
Maruti Suzuki Alto Car bearing Registration No. BR10W-7261,
Chassis No. MA3EUA61S00901859 Engine No.
F8DN5664676, which has been seized in connection with
Dholbajja (Kadwa) P.S. Case No. 71 of 2018 for the offences
punishable under Sections 30(a), 38(1) of 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 supports the seizure of the vehicle 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 Collector-cum-District Magistrate, Bhagalpur 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, Bhagalpur 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)

sushma/-

AFR/NAFR	NAFR
CAV DATE	08.07.2019
Uploading Date	NA
Transmission Date	NA

