

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10433 of 2019

=====

Manti Kumari D/o Ramji Chaudhary Resident of Village Purani Bus Stand
P.S. Rajauli District Nawada Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar, Prohibition and Excise Department Bihar, Patna.
2. The Excise Commissioner Bihar Prohibition and Excise Department, Bihar, Patna.
3. The Excise Officer, Bihar Prohibition and Excise Department Gaya.
4. The District Magistrate Gaya.
5. The Superintendent of Police Gaya.
6. The Officer Incharge of Muffasil Police Station District Gaya.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Verma
For the Respondent/s : Mr.Vikash Kumar (Sc11)

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 06-08-2019

Heard learned counsel for the petitioner and learned Counsel for the State.

The petitioner prays for provisional release of the Bolero Jeep bearing Registration No. BR27P0435 which has been seized in connection with Gaya Mofassil P.S. Case No. 449 of 2018 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 his vehicle was stolen for which he lodged an FIR bearing Rajauli P.S. Case No. 333 of 2018. Later on the said vehicle was recovered from which 880 litres of country liquor was seized. Confiscation proceeding is pending and the vehicle is lying



under the open sky in the police station. The seizure list reflects the seizure of the vehicle and 880 litres of country 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 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 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 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 one surety along with a Bank Guarantee or the original title deed of immovable property situated in the district, as the case may be, to the extent of the value of the vehicle as indicated in the insurance document and the undertakings, as stated above. This release would, however, be subject to finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the confiscating authority subject to final decision in the confiscation proceedings.

The writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	18.8.19
Transmission Date	

