

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9689 of 2019

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Kameshwar Prasad, Son of Algu Prasad, Resident at Quarter No b-52, Patan Road, Power Grid Colony, Police Station Sukha, Districct- Jabalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar Prohibition and Excise Department, Bihar, Patna.
2. The Principal Secretary, Bihar Prohibition and Excise Department, Bihar, Patna.
3. The District Magistrate, Patna, District- Patna.
4. The Superintendent Of Police, Nalanda District- Nalanda.
5. The Thana-In.Charge, Pirbahore, Police Station District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rabindra Prasad Singh
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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

Date : 23-07-2019

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

The petitioner is owner of Swift car and prays for provisional release of his vehicle bearing Registration No. MP20CG5876, Chassis No. MA3EHKD1S00D39383, Engine No. K12MN2038619, which has been seized in connection with Pirbahore P.S. Case No. 69 of 2019 for the offences punishable under Sections 30(a), 37(b)(c) 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 375 ml. 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, Patna with two sureties (one local) 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, Patna 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	3.8.19
Transmission Date	NA

