

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9331 of 2019

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Binod Mehta, Son of Vishun Dev Mehta, Resident of Village- Dudhar, P.S.-
Risiup, District- Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Excise,
Government of Bihar, Patna.
2. The District Magistrate, Aurangabad.
3. The Superintendent of Police, Aurangabad.
4. The Officer-in-Charge, Risiup Police Station, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Leelawati Kumari, Adv.
For the Respondent/s : Mr. Kumar Manish, SC-5

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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 : 15-07-2019

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

The petitioner prays for provisional release of the Auto
Rickshaw bearing registration No. BR26C-2290, Engine No.
R9E2645119 and Chasis No. DFLE854000, which has been seized
in connection with Risiup P.S. Case No.02 of 2017, District
Aurangabad 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 3.8
litres of country made liquor has been seized; the 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 Auto Rickshaw and 3.8 litres of country made 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 Collector cum District Magistrate, Aurangabad 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 Collector cum District Magistrate, Aurangabad 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.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

skpathak/-

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

