

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8958 of 2019

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Khurshid Alam S/oMohammad Sairul Alam Resident of Village-Singhia,P.O.
Pararia,P.S. Sikty,Dist.-Araria

... .. Petitioner/s

Versus

1. The State of Bihar represented through the Principal Secretary-cum-Commissioner,Department of Excise,Govt. of Bihar,Patna
2. The Excise Commissioner, Bihar,Patna
3. The District Magistrate, Araria
4. The Superintendent of Police, Araria
5. The Superintendent of Excise, Araria
6. The Officer in Charge, Sikti Police Station,Dist.-Araria

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Sharma
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 : 12-07-2019

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

This application has been filed seeking provisional
release of the motorcycle bearing Registration No. BR38L7845,
Chassis No. MBLJFWO19J4E06502, Engine No.
JF33ABJ4E10107, which has been seized in connection with
Sikti P.S. Case No. 230 of 2018 registered under Section 30(a)
of the Bihar Prohibition and Excise Act.

Learned counsel for the petitioner submits that for



recovery of 5 litres of Cough Syrup, the motorcycle bearing Registration No. BR38L7845, in question has been seized because according to the respondent, it is capable of being used as a substitute for an intoxicant. It is submitted that confiscation proceeding is not initiated.

Learned counsel for the State has not been able to clarify that whether or not the cough syrup so seized comes in the prohibited category of intoxicant or spirit or liquor or fermented liquor or illicit liquor under the Bihar Prohibition and Excise Act, 2016.

Having heard learned counsel for the parties and in the given facts and circumstances where no confiscation proceeding is presently pending and the seizure is of cough syrup, let the vehicle in question be released in favour of the petitioner on the petitioner's producing the document of ownership and registration in his name before the designated Court below with two sureties to the extent of the value of the vehicle as indicated in the insurance document and an undertaking that he will not create third party rights during pendency of the proceeding.

The release shall be allowed within a period of 14 days from the date of production of ownership papers before the



court below with the sureties along with the undertaking as stated above. This release, however, would be subject to the final order passed in the confiscation proceeding, if any.

The petitioner shall be at liberty to raise the issues whether or not the seized goods comes within the prohibitory jurisdiction of ‘the Act’.

The writ petition is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.7.19
Transmission Date	NA

