

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10904 of 2019

Govind Kumar S/o Shashipal Choudhary Resident of Tatwa Toli, Ward No.-
8, P.S.- Mokama, District- Patna.

... .. Petitioner/s

Versus

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

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Nilanjan Chatterjee
For the Respondent/s : Mr.Vikash Kumar (Sc11)

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 20-08-2019

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

The petitioner is owner of Scorpio Car and prays
for provisional release of his vehicle bearing Registration No.
BR21P1804 which has been seized in connection with Mokama
P.S. Case No. 112 of 2018 for the offences punishable under
Sections 30(a) and 38 of Bihar Prohibition and Excise Act,
2016 and Sections 25(1-b)a, 26 and 35 of the Arms Act.

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 18 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 District Magistrate, Patna 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, 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.

(Shivaji Pandey, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.8.19
Transmission Date	NA

