

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9204 of 2019

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Akhtar Raja @ Md. Akhtar Raza, about 29 years Gender Male, Son of Md. Wakil @ Mohd. Wakil Resident of- 352 B-3, Munirka Village- Near- Paul Dairy, Opposite- J.N.U. Main Gate, Police Station- Munirka, District- South West Delhi, Delhi 110067.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
2. The District Magistrate cum Collector, East Champaran, Motihari.
3. The Superintendent of Police, East Champaran, Motihari.
4. The Officer in Charge, Dumariyaghat Police Station, District- East Champaran, Motihari.

... .. Respondents

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Appearance :

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

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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 Maruti Car bearing registration No. DL-3C-BL-8250 which has been seized in connection with Dumariyaghat P.S. Case No. 39/2019 for the offences punishable under sections 272, 273, 34 of the Indian Penal Code and 30(a) of the Bihar Prohibition and Excise Act, 2016.



It is stated by learned counsel for the petitioner that 1.5 litres of IMFL has been seized; the confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the vehicle and 1.5 litres of IMFL.

The petitioner has described himself as a purchaser of the vehicle in question from one Kamal Kumar, who is the registered owner. The registration certificate has been brought on record as Annexure 1 to the writ petition. The petitioner has also brought on record the transfer receipt issued by the Transport Department, Govt. of NCT of Delhi, whereby the purchaser of the said vehicle has applied for registration in his name.

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 yet to be initiated, 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 designated court below 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 designated court below 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, if any.



With the observations above, this writ petition is
allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.07.2019
Transmission Date	NA

