

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9574 of 2019

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1. Sudama Prasad S/o Sri Bhagwat Prasad @ Jawahar Prasad Resident of Village- Chakkan Tola Mirjapur, P.S.- Hilsa, District- Patna.
 2. Subodh Kumar S/o Sri Jawahar Prasad Resident of Village Ghana Bigha, Gajobag, P.S.- Ekangarsarai, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Dept of Excise and Prohibition, Govt. of Bihar, Patna.
2. The Collector cum District Magistrate Nalanda, District Nalanda.
3. The Superintendent of Police, Nalanda, District- Nalanda.
4. The Officer in-charge Hilsa Police Station District- Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Uday Pratap Singh, Advocate
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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

Date : 18-07-2019

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

The instant application has been filed by the petitioner
no. 1 who was the owner of the tractor and petitioner no. 2 who
was the owner of tailor for provisional release of the tractor
bearing registration No. BR21K2045, Engine No.
331008STF2387A and Chassis No. WXTF24405034860 and
tailor bearing registration no. BR21GA5547, Engine No.



00000000 and Chassis No. DEW02311617 which have been seized in connection with Hilsa P.S. Case No. 115 of 2019 for the offence punishable under section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is submitted by learned counsel for the petitioners that 1.500 litres of country liquor was recovered from the tractor and there is no recovery from the tailor. 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 tractor and tailor and 1.500 litres of country 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 yet to be initiated, we direct that the vehicle in question be released provisionally in favour of the petitioners on production of ownership and registration with respect to vehicle in question 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. The petitioners 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 petitioners 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 petitioners 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 petitioners and the same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioners 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)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

