

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8987 of 2019

=====

Bablu Kumar S/o Shivaji Sah Residence of Village-Kumhara Bishanpur,P.S.
Dumra,Dist.-Sitamarhi Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary,Registration,Excise and Prohibition Department,Govt. of Bihar,Patna
2. The Principal Secretary, Registration,Excise and Prohibition Department,Govt. of Bihar,Patna
3. The Collector-cum-District Magistrate, Sitamarhi
4. The Superintendent of Excise, Sitamarhi

... .. Respondent/s

=====

Appearance :

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

=====

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.

The petitioner prays for provisional release of the Hero
Honda Splendor Plus bearing Registration No. BR30M2663, Chassis
No. MBLHA10CGGHA034288, Engine No. HA10ERGHA44016,
which has been seized in connection with Complaint Case No.
G.O./132 of 2018 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
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 motorcycle and 36 litres of Nepali 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 District Magistrate, Sitamarhi 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, Sitamarhi 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.

(Jyoti Saran, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.7.19
Transmission Date	NA

