

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10906 of 2019

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Md. Tavar, aged about 59 years, male, S/o Batohi Mian, R/o Village- Dakahi,
P.S.- Andharamath, Dist.- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Prohibition Excise and Registration Department,
Govt. of Bihar, Patna.
3. The Excise Commissioner, Prohibition and Registration Department, Govt.
of Bihar, Patna.
4. The Collector, Madhubani.
5. The District Transport Officer, Madhubani.
6. The Excise Superintendent Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Bharti, Adv.
For the Respondent/s : Mr. Kumar Manish (SC5)

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

Date : 21-08-2019

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

The petitioner prays for provisional release of the Black
Color TVS Apache Motorcycle 180cc bearing Registration No.
BR07AA 3404, which has been seized in connection with Andhramath
P.S. Case No. 86 of 2017 for the offences punishable under Sections
272 and 273 of the Indian Penal Code and Section 30(a) of Bihar
Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 10.5
litres of country made liquor has been seized; the 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 Black Color TVS Apache Motorcycle 180cc and 10.5 litres of country made 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, Madhubani 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, Madhubani 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 initiation and finalization of the confiscation proceeding if any.

With the observations, this writ petition is allowed.

(Shivaji Pandey, J)

rishi/-

(Partha Sarthy, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.08.2019
Transmission Date	

