

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9313 of 2019

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Guddu Rai @ Ritesh Roy @ Ritesh Ray, S/o Late Shyam Sundar Ray
Resident of Rambag, Sarna Chowk, P.S.- Sadar, Distt.- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The Collector cum District Magistrate, Purnea
3. The Superintendent of Police Purnea.
4. The S.H.O. Sadar Police Station, P.S.- Sadar, District- Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha, Adv.
For the Respondent/s : Mr. Vikash Kumar, SC-11

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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 motorcycle bearing registration No. BR39L-4505, Engine No. DJZCDM81985, Chasis No. MD2A12DZ5DCM83456; Car bearing Registration No. BR11AH-8117, Engine No. B4AA400E210439, Chasis No. MEEBBA008J6595123 and TVS Motorcycle bearing Registration No. BR11V-3125, Engine No. OE4KE2660120, Chasis No. MD634KE48E2K65097, which have been seized in connection with Sadar P.S. Case No. 645 of 2018, District Purnea for the offences punishable under sections 272 and 273 of the Indian Penal Code and section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is submitted by learned counsel for the petitioner that the petitioner happens to be the registered owner of motorcycle bearing Registration No. BR39L-4505 and the Car bearing Registration



No.BR11AH-8117 and in so far as the motorcycle bearing Registration No.BR11V-3125 is concerned, he has purchased the same from the registered owner Kunal Kumar, however, the same has still not been registered although an application for the same has been made. It is further submitted by learned counsel for the petitioner that 36.136 litres of India Made Foreign Liquor are said to have been recovered from the car of the petitioner on which the house of the petitioner was searched and thereafter the aforesaid two motorcycles were also seized on the basis of suspicion.

It is stated by learned counsel for the petitioner that 36.120 litres of India Made Foreign Liquor has been seized; the confiscation proceeding is pending and the vehicles are lying under the open sky in the police station. The seizure list supports the seizure of the aforesaid motorcycles, car and 36.120 litres of India Made Foreign 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 since no recovery is made from the two motorcycles which have been seized on suspicion, the same be released unconditionally on production of ownership papers.

In so far as the release of car is concerned, let 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 Collector cum District Magistrate, Purnea with two sureties each 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 Collector cum District Magistrate, Purnea 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.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

skpathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.07.2019
Transmission Date	NA

