

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10872 of 2019

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Naseem Son of Late Yasin R/o Village-Kairana, P.S.-Kairana, District-Shamli
(U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, State of Bihar, Patna
2. The District Magistrate Gopalganj
3. The Superintend of Excise Department Gopalganj
4. The Police Inspector Excise, Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey
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 : 20-08-2019

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

The petitioner is owner of a Truck and prays for provisional
release of his vehicle bearing registration No. HR-63(C)4237 which has
been seized in connection with Excise Case No. 195 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 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 truck and 1868.4 litres of IMFL.



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 papers with respect to vehicle in question before the designated court below with one surety (local) alongwith a Bank Guarantee or original title deed of immovable property situated within the District to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the Bank Guarantee or the original title deed, as the case may be, 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 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 production of ownership/registration papers supporting the claim of the petitioner together with one surety (local) alongwith the Bank Guarantee or title deed of immovable property situated in the district, to the extent of the value of the vehicle as indicated in the insurance document and the undertaking, as stated above. This release would, however, be subject to initiation and finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the designated court below subject to final decision in the confiscation proceedings.

With the observations above, this writ petition is allowed.

(Shivaji Pandey, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26/8/19
Transmission Date	NA

