

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9813 of 2019

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Chaman Kumar @ Chaman Kumar Sah Son of Basant Prasad Sah, Resident of Village- Thakurbari Road, Ganga Babu Chowk, P.S. Kishanganj, District- Kishanganj. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Patna, Bihar.
2. The Collector/District Magistrate, Kishanganj.
3. The Superintendent of Police, Kishanganj.
4. The Excise Superintendent of Police, Kishanganj.
5. The Excise Inspector, Kishanganj, District- Kishanganj.
6. The Officer Incharge, Kishanganj, Police Station Kishanganj, District- Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amal Kumar Sinha, Advocate
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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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 : 26-07-2019

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

The petitioner prays for provisional release of the TVS Jupitar Scooty bearing Registration No. BR37K0270 which has been seized in connection with Special Case No. 44 of 2019 arising out of Kishanganj P.S. Case No. 61 of 2019 for the offence punishable under sections 30(a) and 37(c) of Bihar Prohibition and Excise Act, 2016.

It is submitted by learned counsel for the petitioner that when the petitioner's vehicle was being driven by one Gagan Kumar and Dipen Modak, on search by the police



personnel 750 ML of IMFL has been seized. It is further submitted that no recovery has been made from the vehicle in question; 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 Scooty and 750 ML 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 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, Kishanganj 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, Kishanganj 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 the final orders passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

