IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10563 of 2019

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Ajay Kumar son of Hargyan Singh R/o House No.261,Sector-3,Housing Board,P.S. Phougat,Dist.-Rohtak.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary Home (Police) Department of Bihar,Patna
2. The Principal Secretary Excise and Prohibition Department Govt. of Bihar,Patna
3. The District Magistrate, Bhojpur
4. The Director General of Police, Bihar,Patnas
5. The Superintendent of Police, Bhojpur
6. The S.H.O. of Ara (Town) Police Station,Dist.-Bhojpur

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Ravindra Kumar
For the Respondent/s : Mr.Kumar Manish (Sc5)

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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 : 06-08-2019

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

The petitioner prays for provisional release of the white colour Swift Dezire Car bearing Registration No. HR-12W 3020, Chassis No. MA3FJEB1S00440048 Engine No. D13A2273200, which has been seized in connection with Excise Case No. 1421 of 2018 for the offences punishable under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 9 litres of India made foreign liquor has been seized; the

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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 white colour Swift Dezire Car and 9 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 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, Bhojpur with two sureties (one local) 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

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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, Bhojpur 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.

(Jyoti Saran, J)

Bibhash/-

(Partha Sarthy, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2019
Transmission Date	NA

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