

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10464 of 2019

Pradip Saw @ Sri Pradeep Kumar Son of Bhuneshwar Saw, R/o Village-Dhobahan, P.S. Ara, Muffasil, District- Bhojpur.

... .. 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 Government of Bihar, Patna.
3. The District Magistrate, Bhojpur.
4. The Director General of Police, Bihar, Patna.
5. The Superintendent of Police, Bhojpur.
6. The S.H.O. of Ara(Town), Police Station , District- Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ravindra Kumar
For the Respondent/s	:	Mr.Vikash Kumar (Sc11)

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
black colour Bajaj discover motorcycle bearing Registration No.
BR3C 8221, Chassis No. MD2DSDSZZNCK 54170 Engine No.
DSGBNK36579, which has been seized in connection with
Excise Case No. 746/2018 arising out of Ara Muffasil (Dhobha)
P.S. Case No. 133 of 2018 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 40 litres of mahua 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 motorcycle and 40 litres of mahua 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 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, 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)

(Partha Sarthy, J)

Bibhash/-

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

