

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9409 of 2019**

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Bhupesh Kumar S/o Siyaram Yadav R/o Village-Kisanipatti, P.S.-Phulparas,  
District-Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Prohibition Act, Govt. of Bihar, Patna
2. The District Magistrate Supaul
3. The Superintendent of Police Supaul
4. The Excise Superintendent Supaul
5. The Officer-in-Charge, Nirmali District-Supaul

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Arun, 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 : 16-07-2019**

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

The petitioner prays for provisional release of the  
Apache Motorcycle bearing Engine No. DE6AK24L0031,  
Chassis No. MD634DE692AL0106 which has been seized in  
connection with Nirmali P.S. Case No. 50 of 2019 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  
though there are total recovery of 45.03 litres but so far as the



motorcycle is concerned, only 1.5 litres of IMFL has been seized; the 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 motorcycle and 1.5 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 with respect to vehicle in question in his name before the designated court below 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 designated 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 submission of the sureties and the undertakings as stated above, which would however be subject to initiation and finalization of the confiscation proceeding, if any.

With the observations above, this writ petition is allowed.

**(Jyoti Saran, J)**

**( Partha Sarthy, J)**

Prakash/-

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