

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9947 of 2019

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Rajesh Kumar Son of Rameshwar Yadav Resident of Village- Feshar, P.S.-
Feshar, District- Aurangabad (Bihar) Petitioner/s

Versus

1. The State of Bihar Through the Secretary Department of Excise Government of Bihar, Patna.
2. The District Magistrate Aurangabad.
3. The Superintendent of Police Aurangabad.
4. The Officer in- Charge Aurangabad Town Police Station, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Leelawati Kumari

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

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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 : 30-07-2019

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

The petitioner is owner of Splendor Pro Motorcycle and
prays for provisional release of his vehicle bearing registration No.
BR26E7038 which has been seized in connection with Aurangabad
Town P.S. Case No. 291 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 pending and the vehicle is lying under
the open sky in the police station. The seizure list supports the
seizure of the motorcycle and 10 litres of country 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, Aurangabad 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, Aurangabad 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 finalization of the confiscation proceeding if any.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	9.8.19
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