

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9803 of 2019

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Indal Yadav @ Indal Kumar, Son of Suresh Yadav @ Late Suresh Prasad Yadav, Resident of Village- Devgan, P.S.- Chaterpur, District- Palamu (Jharkhand) at present residing at Village- Mirpur, P.S.- Kutumba, 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, Kutumba Police Station, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Leelawati Kumari, Advocate
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 : 26-07-2019

At the outset learned counsel for the petitioner seeks permission to make necessary correction in paragraph 8 of the writ petition with respect to the quantity of liquor recovered which inadvertently has been incorrectly typed as 260 ml in stead of the correct 360 ml.

Let the same be done in course of the day.

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

The petitioner prays for provisional release of the TVS Apache Motorcycle bearing Registration No. JH05BS5186 which has been seized in connection with Kutumba P.S. Case No. 84 of 2018 for the offence punishable under section 353 of



the Indian Penal Code and section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 360 ml of IMFL 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 360 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, 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 the final orders passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

Prakash/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

(Partha Sarthy, J)

