

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9812 of 2019

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Sarban Sada @ Shrawan Sada Son of Kamla Sada Resident of Village- Ward
No. 03, Aulabadi, Khoragacchi, Police Station- Sikti, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Excise and Prohibition, government of Bihar, Patna.
2. The Divisional Commissioner Purnea Division, Purnea.
3. The District Magistrate cum Collector Araria.
4. The Superintendent of Police Araria.
5. The Officer in- Charge of Sikti Police Station District- Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh

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 : 26-07-2019

Counter affidavit is being filed today on behalf of respondent-
State of Bihar. Let it be kept on record.

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

The petitioner is owner of Glamour DRS Motorcycle and
prays for provisional release of his vehicle bearing Registration No.
BR11X0186, Chassis No. MBLJA06AMGGA23001, Engine No.
JA06EJGGA14427, which has been seized in connection with Sikti P.S. Case
No. 40 of 2019 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 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 7.8 litres of Nepali 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, Araria 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, Araria 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	8.8.19
Transmission Date	NA

