

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9894 of 2019

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Mukesh Rai S/o Amir Rai Vill.- New Gosai Tola, Sultanpur, P.s.- Danapur,
Distt.- Patna (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna
2. The Principal Secretary Registration, Excise and Prohibition Department, Govt. of Bihar, Patna
3. The District Magistrate Saran at Chapra, Distt.- Saran (Bihar)
4. The Superintendent of Excise Saran at Chapra, Distt.- Saran (Bihar)
5. The Superintendent of Police Saran at Chapra, Distt.- Saran (Bihar)
6. The Station House Officer Sonepur Police Station , Distt.- Saran at Chapra, (Bihar)
7. The Station House Officer Revilganj Police Station, Distt.- Saran at Chapra (Bihar)
8. The Investigating Officer of Sonepur Police Station Case No. 308 of 2017, Distt.- Saran at Chapra (Bihar)
9. The Investigating Officer of Revilganj Police Station Case No. 262 of 2017, Distt.- Saran at Chapra (Bihar)

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar, Advocate
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

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

The petitioner prays for provisional release of the
Splendor Plus Motorcycle bearing registration No. BR01DC7993
which has been seized in connection with Revilganj P.S. Case No.
262 of 2017 for the offences punishable under sections 272 and



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

It is submitted by learned counsel for the petitioner that on his vehicle having been stolen, he reported the matter to the police. An FIR being Sonepur P.S. Case No. 308 of 2017 was registered on 07.08.2017 for offence under section 379 of the Indian Penal Code. It subsequently transpired that the vehicle had been recovered from the accused persons of Revilganj P.S. Case No. 262 of 2017 registered for the offence under sections 272 and 273 and section 30(a) of the Bihar Prohibition and Excise Act, 2016. It is further submitted that 50 litres of country liquor 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 40 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 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 papers with respect to vehicle in question before the designated court below with one local surety alongwith a Bank Guarantee or original title deed of immovable property situated within the District to the extent of the value of the vehicle as indicated



in the insurance document. The petitioner while submitting the surety and the Bank Guarantee or the original title deed, as the case may be, 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 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 production of ownership/registration papers supporting the claim of the petitioner together with one surety alongwith the Bank Guarantee or title deed of immovable property situated in the district, to the extent of the value of the vehicle as indicated in the insurance document and the undertaking, as stated above. This release would,



however, be subject to initiation and finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the designated court below subject to final decision in the confiscation proceedings.

With the observations above, this writ petition is allowed.

(Jyoti Saran, J)

(Partha Sarthy, J)

Prakash/-

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

