

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11005 of 2019

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Nirmal Kumar Singh Son of Kanhiya Singh, Resident of Village- Jap Tola
Daakshin Telua, P.S. Nautan, District- West Champaran at Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise Department,
Bihar, Patna.
2. The District Magistrate, East Champaran Motihari.
3. The Superintendent of Police, East Champaran Motihari.
4. The S.H.O. Motihari, Muffasil.,

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vinay Kumar
For the Respondent/s : Mr.Vivek Prasad (Gp 7)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 22-08-2019

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

The petitioner prays for provisional release of the vehicle
Bullet (Royal Enfield) bearing Registration No. BR22V3161
which has been seized in connection with Paharpur P.S. Case
No. 8 of 2019 for the offences punishable under Sections 30(a),
33, 34 and 36 of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that
1.60 litres of country liquor 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 Bullet (Royal Enfield) and 1.60 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, Motihari 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, Motihari 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.

(Shivaji Pandey, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	30.08.2019
Transmission Date	

