

4IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10032 of 2019

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Harendra Ray Son of Late Laal Bihari Ray R/o Sheohar Ward No. 2, P.S.-
Sheohar, District-Sheohar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna
2. The District Magistrate Sheohar
3. The Superintendent of Police Sheohar
4. The Excise Superintendent Sheohar
5. Ashok Kumar Ray Sub-Inspector, Mobile, Excise, Sheohar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Hans Lal Kumar
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 01-08-2019

As prayed for, leave is granted to learned counsel for
the petitioner to make appropriate correction in paragraph no. 1
of the application.

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

The petitioner prays for provisional release of Bajaj
Discover Motorcycle bearing Registration No. BR557648 along
with release of two mobile phones and cash of Rs. 2,000/-
which has been seized in connection with Sheohar P.S. Case No.
02 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 two mobile phones, cash of Rs. 2,000/- are kept in the concerned police station alongwith a vehicle which is lying under the open sky in the police station. The seizure list supports the seizure of the two mobile phones, cash of Rs. 2,000/-, a motorcycle and 1.5 litres 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 two mobile phones in question be released forthwith within a fortnight in favour of the petitioner on production of documents with respect to mobiles in question in his name before District Magistrate, Sheohar along with cash of Rs. 2,000/-.

So far as vehicle in question is concerned, 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, Sheohar 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, Sheohar 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	16.8.19
Transmission Date	NA

