

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10276 of 2019

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Mandeshwar Sahni Son of Rajendra Sahni, resident of Village- Patahi,
Dewapur, P.S.- Patahi, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Collector cum District Magistrate, Sitamarhi.
3. The Superintendent of Police, Sitamarhi.
4. The Officer in charge, Suppi Police Station, District- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Chandra
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 PARTHA SARTHY)

Date : 06-08-2019

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

The petitioner is owner of boat and prays for its provisional
release which has been seized in connection with Sitamarhi (Suppi) P.S.
Case No. 08 of 2018 for the offences punishable under section 30(a) of
the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that
confiscation proceeding is yet to be initiated. The seizure list
reflects the recovery of boat and 390 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 yet to be initiated, we direct that the boat in question be released provisionally in favour of the petitioner on production of supporting documents with respect to boat in question before the designated court below with one surety alongwith a Bank Guarantee or original title deed of immovable property situated within the District to the extent of the value of the boat. 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 boat 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 boat during the pendency of the confiscation proceeding and shall not alienate the boat during this period.

(iii) The petitioner shall furnish an undertaking to produce the boat before the confiscating authority as and when required.

(iv) Prior to release of the boat, a Panchanama would be prepared by the court below wherein the photograph of the boat 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 boat 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)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.8.19
Transmission Date	NA

