

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10425 of 2019**

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Dharmendra Kumar Sahni @ Dharmendra Sahni Son of Prem 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. 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 JYOTI SARAN)**

**Date : 06-08-2019**

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

The petitioner prays for provisional release of the Boat  
which has been seized in connection with Sitamarhi (Suppi) P.S. Case  
No. 8 of 2018 for the offence 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 stated by learned counsel for the petitioner that 397.8  
litres of Nepali liquor has been seized; the confiscation proceeding is  
yet to be initiated and the boat is lying under the open sky in the police



station. The seizure list supports the seizure of the boat and 397.8 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 yet to be initiated, we direct that the boat in question be released provisionally in favour of the petitioner on production of ownership papers with respect to the 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 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/-

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