

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10169 of 2019

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Baliram Prasad alias Baliram Sah S/o Fulena Prasad @ Phulaina Prasad
Resident of Village-Kalyanpur Tola,Rikhai Bari,P.O. Kalyanpur,P.S.
Bhorey,Dist.-Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary,Excise Department,Govt. of Bihar,Patna
2. The Principal Secretary, Excise Department,Govt. of Bihar,Patna
3. The District Magistrate-cum-Collector, Gopalganj
4. The Superintendent of Police, Gopalganj
5. The Officer-in-Charge(S.H.O.), Bhorey Police Station,Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Lokesh Kumar Singh
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 : 05-08-2019

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

The petitioner is owner of Mahindra DI Mini Truck
and prays for provisional release of his vehicle bearing
Registration No. BR29G0176 which has been seized in
connection with Bhorey P.S. Case No. 61 of 2018 for the
offences punishable under Sections 272, 273 and 420 of the
Indian Penal Code and Sections 30(a), 35 and 38 of Bihar
Prohibition and Excise Act, 2016.



It is stated by learned counsel for the petitioner that 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 vehicle and 18 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, Gopalganj 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, Gopalganj 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	9.8.19
Transmission Date	NA

