

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16623 of 2018

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Deepak Kumar, son of Shri Satto Thakur, resident of Village- Latouna, P.S.
Triveniganj, District- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise Department, Bihar,
Patna.
2. The District Magistrate, Bhagalpur.
3. The Superintendent of Police, Bhagalpur.
4. The S.H.O. Sabaur Police Station, District- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Sumiran Rai
For the Respondent/s : Mr. Vikash Kumar - SC11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 28-01-2019

Heard learned counsel for the petitioner and

learned counsel appearing on behalf of the state.

The petitioner prays for provisional

release of the Scorpio vehicle bearing Registration No. BR-

11T-5783, Chassis No. MA1TA2SJXE2J18358 Engine No.

SJE4J11736 together with Cash of Rs. 14,000/-, the details

of which are mentioned in the seizure list, has been seized



in connection with Sabour (Goradih) P.S. Case No. 104 of 2018 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

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 reflects the seizure of 3 liters of Royal Stag Whisky together with cash of Rs. 14,000/-.

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 Court below with two sureties (one local) 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 court below 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 would, however, be subject to initiation and finalization of the confiscation proceeding, if any.



With the observations above, this writ
petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02/02/2019
Transmission Date	N/A

