

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11809 of 2018

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Ramzee Lal, Son of Shree Ram Parwesh Resident of Village Azad Nagar
Sunderpur Road, P.S. Aekdil, District Etawa UP.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.s
2. The Collector, Purnea District Purnea.
3. The Sub Divisional Magistrate, Purnea District Purnea.
4. Superintendent of Police, Purnea District Purnea.
5. S.H.O. Baisi P.S. Baisi District Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Md. Ziaul Quamar
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 : 04-02-2019

Heard learned counsel for the petitioner and
learned Counsel for the State.

The petitioner prays for provisional release of the
truck bearing Registration No. UP-75M/5648, which has
been seized in connection with Special Excise Case No. 720
of 2017 arising out of Baisi P.S. Case No. 180 of 2016 for the
offences punishable under Sections 272/273 of the Indian
Penal Code read along with side Section 30(a)/41(I) 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 1000 liters of spirit.

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 one local surety along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. 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 vehicle in question has never been involved in any offence of similar nature in past and shall not indulge in similar offence in further.

(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 production of ownership/registration papers supporting the claim of the petitioner together with one surety (local) along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance document and the undertakings as stated above. This would, however, be subject to the final



order passed in the confiscation proceeding.

With the observations and directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/shailendra-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.02.2019
Transmission Date	NA

