

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11522 of 2019

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Ashok Kumar Prasad Son of Bishwanath Prasad Resident of Village Ward no.
8 Sheokhopur, Sahdei Buzurg, P.S.- Dehari (Sahdei Buzurg O.P) District-
Vaishali. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Bihar Prohibition and Excise Act Patna.
2. The Excise Commissioner Bihar Prohibition and Excise Department Bihar, Patna.
3. The Excise Officer Bihar Prohibition and Excise Department Vaishali at Hazipur.
4. The District Magistrate Vaishali at Hazipur.
5. Superintendent of Police Vaishali at Hazipur.
6. The Officer incharge Deshari police Station (Sahdei Buzurg O.P).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Verma
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 29-08-2019

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

The petitioner is owner of Bolero Jeep and prays for provisional release of his vehicle bearing Registration No. BR05H4989 which has been seized in connection with Deshari (Sahdei Buzurg OP) P.S. Case No. 61 of 2019 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 pending and the vehicle is lying under the



open sky in the police station. The seizure list reflects the seizure of 106.2 litres of IMFL

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, Vaishali at Hazipur with one 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 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, Vaishali at Hazipur 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 one surety along with a Bank Guarantee or the original title deed of immovable property situated in the district, as the case may be, to the extent of the value of the vehicle as indicated in the insurance document and the undertakings, as stated above. This release would, however, be subject to finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the confiscating authority subject to final decision in the confiscation proceedings.

The writ petition is allowed.

(Shivaji Pandey, J)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	4/9/19
Transmission Date	NA

