

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15154 of 2019

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Mohan Mistri Son of Jagdish Mistri Resident of Village- Barshima Powa,
P.S.- Fatehpur, district- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar The Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home Bihar, Old Secretariat Patna.
3. The Principal Secretary, Department of Excise, Bihar Old Secretariat, Patna-1
4. The Collector cum District Magistrate Gaya.
5. The Superintendent of Police, Gaya.
6. The Excise Superintendent Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prithivi Raj Singh
For the Respondent/s : Mr.Vikash Kumar (Sc11)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

2 08-11-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner is owner of tempo and prays for
provisional release of his vehicle bearing Registration No.
BR02PA9116 for the offences punishable under sections 30(a)
and 56(b) 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 36.375 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 Collector-cum-District Magistrate, Gaya 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, Gaya 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.

(Shivaji Pandey, J)

(Partha Sarthy, J)

sushma/-

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