

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14768 of 2019

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Virendra Panday S/o Basudeo Panday R/o Village-Nardih, P.S. and District-
Jamui Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna
2. The Director General of Police Bihar, Patna
3. The Inspector General Bhagalpur, Bihar
4. The Deputy Inspector General Munger, Bihar
5. The Collector Lakhisarai
6. The Superintendent of Police Lakhisarai
7. The Police Inspector Lakhisarai, (Circle, District-Lakhisarai)
8. The S.H.O. Police Station-Lakhisarai, District-Lakhisarai

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar, Advocate
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 ORDER

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

2 06-11-2019 Heard learned counsel for the petitioner and

learned Counsel for the State.

The petitioner is owner of tempo and prays for
provisional release of his vehicle bearing Registration No.
BR46B6570, Engine No. R2D2127653 and Chasis No.
MBX0000WB0E505252 which has been seized in
connection with Excise Case No. 7c2 of 2018 (P.R. No. 64
dated 24/01/2018) for the offences punishable under
Sections 30(a), 32(i), 38(i) and 56(d) 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 300 litres of illicit toddy.

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, Lakhisarai 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, Lakhisarai 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 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)

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