

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15069 of 2019

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Sudhir Kumar @ Sudhir Kumar Yadav Son of Rajo Yadav@ Rajindar Yadav,
Resident of Village- Jharkaha Ward No. 21 Fatehpur, Police Station-
Narpatganj, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Araria.
4. The Superintendent of Police, Araria.
5. The Superintendent of Excise, Araria.
6. The S.H.O. Fulkaha Police Station, District- Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Rana
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 08-11-2019 A supplementary affidavit has been filed by the

learned counsel for the petitioner in which registration number

of the motorcycle is mentioned in paragraph no. 2.

The counsel for the petitioner undertakes to deposit

deficit court fee by Wednesday.

Let the deficit court fee be deposited by Wednesday

without fail.



Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

The petitioner is owner of motorcycle and prays for provisional release of his vehicle bearing registration No. BR38T3530 which has been seized in connection with Fulkaha P.S. Case No. 68 of 2019 for the offences punishable under sections 30(a), 38, 41(i) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the motorcycle and 12 litres of Nepali liquor.

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 yet to be initiated, 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 designated court below 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 designated 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, which would however be subject



to initiation and finalization of the confiscation proceeding, if any.

With the observations above, this writ petition is allowed.

(Shivaji Pandey, J)

(Partha Sarthy, J)

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