

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19868 of 2019

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Mohammad Azam S/o Ishrar Vill.- Rustampur, P.s.- Bhojpur, Distt.-
Muradabad, State- Uttar Pradesh

... .. 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 of Police Tirhut Range at Muzaffarpur
4. The Deputy Inspector General of Police Muzaffarpur
5. The District Magistrate Muzaffarpur
6. The Superintendent of Police Muzaffarpur
7. Arvind Prasad the Station House Officer of Saraiya (Jaitpur O.P.), Distt.-
Muzaffarpur
8. Braj Bhushan Singh A.S.I. of Saraiya (Jaitpur O.P.) Police Station, Distt.-
Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mrs.Sanjana, Advocate
For the Respondent/s : Mr.Vikash Kumar (SC-11)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 16-12-2019

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

The petitioner prays for provisional release of the Truck
bearing registration No. BR-UP21CN-2313, which has been seized
in connection with Saraiya (Jaitpur) P.S. Case No. 401 of 2019 for
the offences punishable under sections 272, 273, 353, 120 (B) of
the Indian Penal Code and Section 30(a) & 45 of the Bihar
Prohibition and Excise Act, 2016.



It is stated by learned counsel for the petitioner that 540 litres of IMFL has been seized, the petitioner has not been made an accused in this case, the 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 aforesaid vehicle and 540 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 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 papers with respect to vehicle in question before the designated court below with one surety (local) along with Bank Guarantee to the extent of the value of the vehicle as indicated in the insurance document. The Bank Guarantee would be renewed before its expiry, failing which the money would be transferred to the State. The petitioner while submitting the surety and the Bank Guarantee 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 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) alongwith the Bank Guarantee to the extent of the value of the vehicle as indicated in the insurance document and the undertaking, as stated above.

This release would, however, be subject to initiation and finalization of the confiscation proceeding.



With the observations above, this writ petition is
allowed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	06.01.2020
Transmission Date	N.A.

