

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17232 of 2018

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Amrika Choudhary, Son of Kesho Chaudhary, resident of Village- Pirbigha
Rasalpur, P.S. Chandautti, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate-cum- Collector, Gaya.
3. The Excise Superintendent, District- Gaya.
4. The Station House Officer-cum- Officer-in- Charge Fatehpur, Police Station
in the District of Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vishwa Ranjan Choudhary
For the Respondent/s : Mr. Vivek Prasad - GP7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 18-02-2019

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

The petitioner prays for provisional release of
Hero Deluxe CDRS motorcycle bearing Registration No.
BR02S 7995, Engine No. HA11EFD9A13766, Chassis No.
HBLHA11EWD9A 13053, which has been seized in connection
with Fatehpur P.S. Case No. 174 of 2017 for the offences
punishable under Sections 272, 273/34 of the Indian Penal Code
read along with side Section 30 (a) of the Bihar Prohibition and
Excise Act.



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 reflects the seizure of 55 liters of country made 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 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-cum-Collector, Gaya 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 got prepared by the District Magistrate-cum-Collector, 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 production of ownership/registration papers supporting the claim of the petitioner together with one surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance amount 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 confiscation authority subject to final decision in the confiscation proceedings.

With the observations/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2019
Transmission Date	NA

