

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17876 of 2018

=====

Gautam Muni, Son of Shri Suresh Prasad Singh, Resident of Kurmadih,
Shambhuganj, P.S. Shambhuganj, District Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition, Government of Bihar, Patna.
2. The District Magistrate, Banka.
3. The Superintendent of Police, Banka
4. The Station House Officer, Police Station-Shambhuganj, District-Banka.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Satyabir Bharti, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP 7

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 25-02-2019

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

The petitioner prays for provisional release of the
Mahindra Alfa Passenger Auto Rickshaw bearing Registration
No. BR10PA 6371, Chasis No. MA1LE2FYSF5G87804 Engine
No. A5F0915084, which has been seized in connection with
Shambhuganj P.S. Case No. 137 of 2017 for the offences
punishable under Sections 30(a) of the Bihar Prohibition and
Excise Act.

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 1.500 liters of I.M.F.L.

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, Banka with two sureties (one local) 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 got prepared by the Collector-cum-District Magistrate, Banka 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.

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	16.03.2019
Transmission Date	NA

