

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21682 of 2018

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Jivaneshwar Kumar Verma, son of Devendra Prasad Verma, resident of village + P.O. - Shivpuri, Ward No.- 14, P.S. + District- Saharsa, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate cum Collector, Saharsa.
3. The Superintendent of Police, Saharsa.
4. The Superintendent of Police, Excise, Saharsa.
5. The S.H.O. of Saurbazar, Police Station, District- Saharsa.
6. The Investigating Officer of Saurbazar P.S. Case No.- 295 of 2018.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amar Nath Yadav, Advocate
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 : 15-04-2019

None appears on behalf of the petitioner. Learned counsel for the State is present.

The prayer is for provisional release of the TVS Apache RTR 160 Motorcycle bearing Registration No. BR 19F 6361, which has been seized in connection with Saurbazar P.S. Case No. 295 of 2018 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the petitioner that he has no information about initiation of the confiscation but



the seizure list reflects a seizure of 2.7 liters of IMFL.

Having heard learned counsel for the parties and taking note of the nature of seizure made, 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, if any, 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 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. This release would, however, be subject to initiation and finalization of the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Nasimul/Shailendra

AFR/NAFR	NAFR
CAV DATE	N/A
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