

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1378 of 2019

Md. Hashmatullah S/o Md. Ataullah Vill.-Bind Mohallah,P.S. Chatra and
Dist.-Chatra (Jharkhand).

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors through the Principal Secretary Deptt. of
Excise, Govt. of Bihar, Patna
2. The District Magistrate, Aurangabad
3. The Superintendent of Police, Aurangabad
4. The Station House Officer, Aurangabad Mufassil, Dist.-Aurangabad

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Verma
For the Respondent/s : Mr. Vivek Prasad (Gp17)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 23-01-2019

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

This application has been filed seeking provisional
release of the vehicle (Bolero) bearing Registration No. JH-12B-
3399, seized in connection with Aurangabad P.S. Case No.181 of
2017 dated 11.10.2017 registered under the Bihar Prohibition &
Excise Act, 2016. It has been stated that from the vehicle in
question 320 liters illicit liquor have been recovered. It is submitted
that confiscation proceeding for the vehicle in question is pending.

Learned counsel for the petitioner submits that the vehicle
is lying under open sky under the Police Station and if it is allowed to
remain there for any longer time, the whole vehicle will become a



junk and if release is not allowed, the State is not going to gain anyway in confiscation proceeding. Learned counsel submits that the petitioner is willing to provide such surety and undertakings which may be required to protect the interest of the State during the pendency of the confiscation.

Learned counsel for the State is present and submits that in the given facts and circumstances of this case if at all the Court is willing to consider provisional release of the vehicle then interest of the State is required to be protected.

In the given facts and circumstances where confiscation proceeding is presently pending, let the vehicle in question be released provisionally in favour of the petitioner on the petitioner's producing the document of ownership and registration in his name before the District Magistrate, Aurangabad (Confiscating Authority) with one surety along with a Bank Guarantee to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety 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 Panchnama would be prepared by the confiscating authority 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 undertake not to challenge the said Panchnama in course of trial.

The release shall be allowed within a period of 14 days from the date of submission of the sureties bond and the undertakings as stated above. This would, however, be subject to initiation and finalization of the confiscation proceeding if any.

The writ petition is allowed

(Jyoti Saran, J)

(Nilu Agrawal, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.02.2019
Transmission Date	NA

