

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17538 of 2019

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Pramjit Paswan, Son of Shiyaram Paswan, Resident of Village- Derua, Ward
No. 06, Bardaha, P.S.- Araria, Dist- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
2. The Principal Secretary Prohibition, Excise and Registration Department, Govt. of Bihar, Patna.
3. The District Magistrate, Araria.
4. The Superintendent of Police, Araria.
5. The Station House Officer, Sikty Police Station, Sikty (Araria).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh
For the Respondent/s : Mr. Kumar Manish (SC-5)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

2 17-12-2019 The present writ application has been filed for

release of C.D. Deluxe motorcycle, bearing Registration No.

BR38N0244, which was seized in connection with Sikty P.S.

Case No. 62 of 2019, registered for the offences punishable

under Sections 272 and 273 of the IPC and Section 30(a) of

the Bihar Prohibition and Excise Act, 2016 as amended by

Amended Act 8 of 2018 (hereinafter referred to as ‘the Act’).

From the vehicle in question, 6.6 litres of Nepali

liquor were recovered.



It is submitted by learned counsel for the petitioner that the petitioner is the registered owner of the seized vehicle and registration certificate of the vehicle in question has been brought on record as Annexure-1 of the writ application. It is further submitted that during pendency of the present writ application, the petitioner has received notice dated 28.09.2015, issued in Confiscation Case No. 183 of 2019, under Section 58(2) of the Act under the signature of Collector, Araria, whereby the petitioner has been asked to submit show cause as to why his vehicle in question be not confiscated. Though the said notice has not been brought on record, but learned counsel for the respondent-State has not denied the issuance of said notice. Hence, learned counsel for the petitioner confines his prayer to the extent for disposal of the present writ application with a direction to the confiscating authority to conclude the confiscation proceeding within a time frame. Learned counsel for the respondent-State has no objection with regard to the confined prayer of the petitioner.

Considering the fact that confiscation proceeding has been initiated, it is expected from respondent no.3, the District Magistrate, Araria to conclude the proceeding of



Confiscation Case No. 183 of 2019 within a period of 45 days from the date of receipt/production of a copy of this order.

It is expected from the petitioner to appear in the confiscation proceeding on the date fixed.

It is made clear that in case the confiscation proceeding does not get concluded within 45 days, despite the petitioner having actively participated, the respondent no.3, the District Magistrate, Araria will release the vehicle in question in favour of the petitioner, provisionally till the conclusion of the confiscation proceeding with the following conditions:-

(I) The petitioner will produce the proof of valid certificate of registration/ownership in his favour including the insurance papers;

(II) The petitioner will furnish surety bond of Rs.50,000/- but not in the form of bank guarantee or cash, with two sureties of the like amount to the satisfaction of the Special Court concerned or the confiscation authority, as the case may be;

(III) The petitioner shall give an undertaking on affidavit that he will not deal with the vehicle in question or



alienate or encumber the same creating any kind of adverse interest against the interest of the State during the pendency of the confiscation proceeding;

(IV) The petitioner will not use the vehicle for any illegal purpose and as and when required, he will produce the vehicle in question before the court or authority concerned.

(V) At the time of release of the vehicle in question, the concerned court or authority shall get prepared photo copy of the vehicle in question duly certified in presence of the petitioner;

(VI) Panchnama of the vehicle in question shall also be prepared and will be kept on record which may be used as secondary evidence and the petitioner will furnish an affidavit incorporating therein an undertaking not to challenge the said photo copy or panchnama so prepared in his presence at the time of release of the vehicle in question for use in course of the trial or confiscation proceeding as the case may be.

The entire exercise will be done by respondent no.3, the District Magistrate, Araria within ten days of receipt/production of a copy of this order.



It is made clear that we have not expressed any opinion with regard to the merits of this case or with regard to the ownership of the vehicle in question.

Accordingly, with the above observation and direction, the present writ application is disposed of.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

Amrendra/-Anil/

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