

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16001 of 2018

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Akeel @ Akil S/o Ubed Alam Resident of Village - Simalbari, Ward No. 01,
P.S.- Kishanganj, District - Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector, District - Araria.
4. The Superintendent of Police, Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kundan Kumar Singh
For the Respondent/s : Mr.Vikash Kumar - Sc11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

2 07-01-2019 Heard learned counsel for the petitioner and Mr.

Vikash Kumar, learned S.C.-11 for the State.

The petitioner prays for provisional release of the

Mahindra & Mahindra Omini Bus Quanto bearing

Registration No. WB 60J-1469, Engine No. HUD6A11777,

Chasis No. MA1YG2HUXD2A21231, which has been seized in

connection with Spl. Case No. 496 of 2018 arising out of

Sadar Anchal Utpad, Araria Case No. 13 of 2018 arising out

of Sadar Anchal Utpad, Araria Case No. 13 of 2018 for the

offences punishable under Sections 30(a) and 45 of the



Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that confiscation proceeding is still pending and the vehicle is lying under the open sky at the Sadar Anchal Utpad Department. The seizure list reflects the seizure of 75 liters of Foreign 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 still 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 court below 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



further.

(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 prepared by the 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 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 would, however, be subject to the final order passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/Braj-

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