

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16374 of 2018

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Trishul Mahto Son of Laxmi Mahto, Resident of Village-and P.O. Brahampur,
P.S. Manigachhi, District-Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar and Ors
2. The District Magistrate, Madhubani
3. The Superintendent of Police, Madhubani.
4. The S.H.O. Police Station, Sakari, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gagan Deo Yadav, Adv.
For the Respondent/s : Mr.Anil Kr. Sinha- GA1

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

Date : 21-01-2019

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

This application has been filed seeking provisional
release of the vehicle (Hero Splendor Pro Motorcycle) bearing
Registration No. BR06AB/9879, Chasis No. MBLHA10ASDHG
38078 Engine No. MA10ELDHG23644 seized in connection with
Sakri P.S. Case No. 87 of 2018 dated 16.06.2018 registered under
Section 30 (a) of the Bihar Prohibition & Excise Act, 2016. It has
been stated that from the vehicle in question 11.625 liters illicit



liquor have been recovered. It is submitted that no 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 release is not allowed the vehicle is likely to become a junk and in such circumstance, 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 no 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 court below 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 Panchnama 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 submission of the sureties along with the undertakings as stated above. This release 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

