

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19778 of 2018

Mr. Vikesh son of Shri Ranbir, resident of 663, Baroda, thuthan, P.S.- Gohana,
District- Sonapat, Haryana 131001

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna
2. The District Magistrate, Gopalganj
3. The Superintendent of Police, Gopalganj
4. The Superintendent of Excise, Gopalganj

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shiv Sager Sharma
For the Respondent/s	:	Mr.Vikash Kumar -SC 11

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-04-2019

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

The prayer of the petitioner is for provisional
release of Scorpio vehicle bearing Chesis No.
MAITA2WR2J2F12342, Engine No. WRJ4F19480, which has
been seized in connection with Excise Case No. 167 of 2018
for the offences punishable under Section 30(a) of the Bihar
Prohibition and Excise Act.

Learned counsel for the State informs that seizure
list reflects seizure of 294.480 liters of I.M.F.L. from the
vehicle of the petitioner. He further informs that there is no



statement with regard to confiscation proceeding.

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 one local 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 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, the designated Court below would get prepared a Panchanama 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 local surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance document and the undertakings as stated above. This release would, however, be subject to the final orders passed in the confiscation proceeding, if any. The title deed papers, if produced, shall remain in safe custody of the court below subject to final decision in the



confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.04.2019
Transmission Date	NA

