

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20268 of 2018

Prabhat Kumar, Son of Rajo Yadav, Resident of Mohalla- Girihinda, P.S.-
Sheikhpura, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Collector-cum-District Magistrate, Sheikhpura, District- Sheikhpura.
3. The Superintendent of Police, Sheikhpura, District- Sheikhpura.
4. The Superintendent of Excise, Sheikhpura, District- Sheikhpura.
5. The Officer-In-Charge, SKP (Sirari) Police Station, District- Sheikhpura.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sharma, Advocate
For the Respondent/s : Mr. Anil Kr.Sinha -GA1

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 15-04-2019

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

The prayer is for provisional release of the BLK Yellow
Bajaj Maxima Diesel Tempo bearing Registration No. BR-46 P
1841, which has been seized in connection with Sheikhpura
(Serari) P.S. Case No. 578 of 2018 for the offences punishable
under Section 30(a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the State that he
has no information about initiation of the confiscation but the



seizure list reflects a seizure of 3 liters of IMFL.

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 two sureties 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, 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, a *Panchanama*



would be got prepared by the designated 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 and the undertakings as stated above. This release would, however, be subject to initiation and finalization of the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Nasimul/Shailendra

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22-04-2019
Transmission Date	N/A

