

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.23850 of 2018**

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Dilip Kumar, S/o Late Vanshi Prasad Sharma, Resident of Village- Taret,  
Police Station- Naubatpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,  
Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Superintendent of Police, Patna.
4. The Officer-Incharge, Janipur Police Station, District- Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ashok Kumar Prasad, Adv.  
For the Respondent/s : Mr. Vikash Kumar, SC-11

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**and**

**HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)**

**Date : 26-04-2019**

Heard learned counsel for the petitioner and learned  
counsel appearing on behalf of the State.

The petitioner prays for provisional release of the  
Passion Pro motorcycle bearing registration No. BR01BV-1888,  
which has been seized in connection with Phulwarisharif (Janipur)  
P.S. Case No.890 of 2018, District Patna for the offences  
punishable under section 30(A), (B), (C), 38(1) and 41(i) of the  
Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 750  
ml. of Indian Made Foreign Liquor has been seized; the



confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the motorcycle and 750 ml. of Indian Made Foreign Wine.

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 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 Collector cum District Magistrate, Patna 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 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 Collector cum District Magistrate, Patna 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, which would however be subject to finalization of the confiscation proceeding.

With the observations above, this writ petition is allowed.

**(Jyoti Saran, J)**

**( Anjani Kumar Sharan, J)**

skpathak/-

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