

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20309 of 2019**

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Dharmendra Kumar Son of Shankar Prasad Resident of Mohalla- Shyam Chak, Police Station- Bhagwan Bazar, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The District Magistrate, Chapra, Saran (Bihar).
3. The Superintendent of Police, Chapra, Saran (Bihar).
4. The SHO, Bhagwan Bazar Police Station, Chapra, Saran (Bihar).

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ankur Prakash Sinha, Advocate  
For the Respondent/s : Mr. Vikash Kumar (SC11)

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**and**

**HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)**

**Date : 20-12-2019**

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

The petitioner prays for provisional release of the Bolero Jeep bearing registration No. BR-04G-8495, which has been seized in connection with Manjhi P.S. Case No. 57 of 2019 for the offence punishable under Sections 30, 30(a), 38 (i) (ii) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 16.920 litres of IMFL has been seized, the petitioner has been made an accused in this case and he has been granted bail, the confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list



supports the seizure of the aforesaid vehicle and 16.920 litres of IMFL.

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 yet to be initiated, we direct that the vehicle in question be released provisionally in favour of the petitioner on production of ownership and registration papers with respect to vehicle in question before the designated court below with two sureties proportionate to the value of the vehicle, looking to the age of the vehicle as indicated in the insurance document. The release will also be subject to production of bail order.

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 as well as he will not change the feature of the vehicle in any manner.

(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/proceeding.

The release of the vehicle 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 above, this writ petition is allowed.

**(Shivaji Pandey, J)**

**( Anjani Kumar Sharan, J)**

V.K.Pandey/-

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