

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20306 of 2018

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Krishan Kumar Jha @ Ghanshyam Jha @ Krishan Kumar, Son of Sri
Bhushan Kumar Jha @ Bhushan Jha, Resident of Village-Nande Nagar
Balha,P.S. Rosera,Distt.-Samastipur,Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Principal Secretary,Home Police,Bihar,Patna
3. The District Magistrate,Samastipur
4. The Superintendent of Police, Samastipur
5. The S.H.O.Police Station,Rosera,Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mritunjay Kumar Singh, Advocate
For the Respondent/s : Mr. Vikash Kumar -SC11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 15-04-2019

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

The petitioner prays for provisional release of the Car
bearing Registration No. BR07AE 1467, Engine No.
K12MN7249826, Chasis No. MBHCZC63SJE182992, which has
been seized in connection with Rosera P.S. Case No. 271 of
2018 and G.R. No. 691 of 2018 for the offences punishable
under Sections 30 (a), 38(i) (ii), 45 and 47 of the Bihar



Prohibition and Excise Act.

It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 235 liters 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 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 District Magistrate, Samastipur with one 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 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 District Magistrate, Samastipur, 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 surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance amount and the undertakings as stated above. This release would, however, be subject to finalization of the confiscation proceeding. The title



deed papers shall remain in safe custody of the Confiscating Authority subject to final decision in the confiscation proceedings.

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

