

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19808 of 2019

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Chandan Kumar Singh @ Chandan Kumar, (Male-26 years), S/o Baikunth Prasad Singh, R/o Vill- Dhaneshpur South, Vidyapati Nagar, P.S.- Vidyapati Nagar, Dist- Samastipur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Patna, Bihar.
2. The District Magistrate, Begusarai.
3. The Superintendent of Excise Department, Begusarai.
4. The Officer in charge- Bakhari Police Station, Begusarai.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate
For the Respondent/s : Mr. Vivek Prasad, G.P.-7

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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 : 16-12-2019

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

Learned counsel for the petitioner is directed to make necessary correction in the name of the petitioner in course of the day.

The petitioner is the owner of Maruti Suzuki Wagon R vehicle and prays for provisional release of his vehicle



bearing Registration No. BR-09J-7558, which has been seized in connection with Begusaria / Bakhari P.S. Case No. 102 of 2019 for the offences punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of aforesaid vehicle and 375 M.L. of I.M.F.L.

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 with respect to vehicle in question in his name before the 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 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 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 got 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.

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 of the vehicle would, however, be subject to initiation and finalization of the confiscation proceeding.



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

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	21.12.2019
Transmission Date	N/A

