

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19761 of 2019

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Raju Das, Son of Satan Das, resident of village- Hanuman Nagar, PO & P.S.-
Sursand, District- Sitamarhi. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Commissioner, Excise Department Bihar, Patna.
3. The Collector-cum-District Magistrate, Sitamarhi.
4. The Superintendent of Police, Sitamarhi.
5. The Excise Superintendent, Sitamarhi.
6. The S.I. Excise, Sitamarhi, Distt.- Sitamarhi.
7. The A.S.I. Excise, Sitamarhi Sadar B Area. Distt.- Sitamarhi.
8. The Excise Officer (Constable), Sitamarhi.
9. The Asstt. Commandant, 51 st BN SSB Sitamarhi B-Coy. ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Devendra Kumar, Adv.
For the Respondent/s : Mr.Vikash Kumar, SC 11

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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.

The petitioner prays for provisional release of the TVS
Apache RTR 180 (BSIV) motor cycle bearing Registration
No.DL3S DR4184, Chasis No.MD634CE62H2D03812, which has
been seized in connection with G.O. Case No.30 of 2019/394 of
2019 for the offence punishable under section 30(A) of the Bihar
Prohibition and Excise Act.

It is stated by learned counsel for the petitioner that



the confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 26 liters 640 ml. of Nepali Saufi 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 before the Collector-cum-District Magistrate, Sitamarhi, 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, Sitamarhi with two sureties (one local) to the extent of proportionate to the value of the vehicle taking into consideration the age of 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 and shall not alienate the vehicle during this period. He will not change the future of 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 Collector-cum-District Magistrate, Sitamarhi, 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 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 finalization of the confiscation proceeding.

With the aforesaid observation and directions, this writ petition is allowed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.12.2019
Transmission Date	N/A



