

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19824 of 2019

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Ghanshyam Chaudhary, (M), aged about 47 years, Son of Chandan Chaudhary, resident of Village- Naya Bazar, Ward No. 2, Saharsa, P.S.- Saharsa, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Bihar, Prohibition and Excise Department, Bihar, Patna.
2. The Excise Commissioner, Bihar Prohibition and Excise Department, Bihar, Patna.
3. The Collector-cum-District Magistrate, Muzafferpur.
4. The Deputy Superintendent of Police, Muzafferpur.
5. The Excise Superintendent, Muzafferpur.
6. Assistant Sub-Inspector (A.S.I), Excise Officer, Bihar Prohibition and Excise Department, Muzafferpur.
7. Assistant Sub-Inspector (A.S.I), Minapur, Muzafferpur.
8. The Officer-in-charge, Minapur, Distt.- Muzafferpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anjani Kumar Jha, Adv.
For the Respondent/s : Mr. Madan Mohan, AC to SC5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

2 16-12-2019 Learned counsel for the petitioner prays for and is allowed to make necessary correction in paragraph no.1 of the present petition.

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

The petitioner prays for provisional release of the Fortuner vehicle bearing registration No. BR-19P 9037 which



has been seized in connection with Minapur P.S. Case No. 416 of 2019 District Muzaffarpur for the offences punishable under section 30(a)/37(b)/37(c) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 7.200 liter of India 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 Fortuner vehicle and 7.200 liter of India Made Foreign Liquor.

The petitioner is the owner of the vehicle but, is not the accused in the present case.

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 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, Muzaffarpur 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 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 prepared by the Collector cum District Magistrate, Muzaffarpur 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 initiation and finalization of the confiscation proceeding.



With the observations above, this writ petition is
disposed of.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

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