

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18324 of 2019

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Mohammad Margub Alam, Gender: Male, aged about 21 years, Son of Inamul Haque resident of Village Pechaili, P.S. Palasi, District Araria.

... .. Petitioner

Versus

1. The State of Bihar represented through the Principal Secretary-cum-Commissioner, Department of Excise, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Araria.
4. The Superintendent of Police, Araria.
5. The Superintendent of Excise, Araria.
6. The Officer in Charge, Tarabari Police Station, District- Araria.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sharma, Adv.
For the Respondent/s : Mr. Vivek Prasad (Gp7)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

2. 16-12-2019 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks release of his motorcycle, bearing registration No. BR38M-4118, which has been seized in connection with Tarabari P.S. Case No. 24 of 2019 registered for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The above-stated motorcycle was seized while two



unknown persons were carrying illicit liquor on the aforesaid motorcycle.

Learned counsel appearing for the applicant submits that the applicant is owner of the aforesaid motorcycle and up-till-now confiscation proceeding in respect of the seized vehicle has not been initiated to the knowledge of the applicant. He further submits that a Division Bench of this Court in similar situation released the seized vehicle provisionally in favour of the owner of the vehicle, which is evident from perusal of Annexure – 3 series to this petition.

Learned counsel appearing for the State expressed his inability to disclose as to whether confiscation proceeding in respect of the seized vehicle has been initiated or not.

Considering the aforesaid facts and circumstances as well as submissions of the parties, this writ application stands disposed of with direction to the court below/concerned court to release the vehicle in question provisionally in favour of the applicant after verifying the original documents of the vehicle and after taking a bond to the extend of cost of the aforesaid vehicle with following conditions:-

“(i) That the vehicle in question has never been involved in any offence of similar nature in past and shall not indulge in similar activities 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 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 undertake not to challenge the said *Panchanama* in course of trial.”

However, it is made clear that this provisional release of the vehicle shall be subject to final outcome of confiscation proceeding, if it is initiated in respect of the seized vehicle.

(Hemant Kumar Srivastava, J.)

(Prabhat Kumar Singh, J.)

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