

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19798 of 2019

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Dinesh Yadav, aged about 69 years (Male), S/o- Gannu Yadav resident of Ward No.- 09, Gram- Lahasoraba, P.S.- Piri Bazar, Chora, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, of Excise Department, Govt. of Bihar, Patna.
2. The State of Bihar through the Principal Secretary, of the Transport Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Bhagalpur, Bihar.
5. The Deputy Inspector, of General, of Police,, Munger (Bihar).
6. The Superintendent of Police District- Lakhisarai, Bihar.
7. The Deputy Superintendent of Police, District- Lakhisarai, Bihar.
8. The S.H.O, (Station, House Officer), P.S.- Mednichowki, District- Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amrendra Kumar
For the Respondent/s : Mr.Vikash Kumar (SC11)

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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 17-12-2019 In this case, a supplementary affidavit has been filed by the petitioner. In paragraph no.2 of the affidavit, it has been stated that wrongly the word ‘the petitioner’ has been mentioned in place of ‘petitioner’s son’. At the same time, he has also stated in paragraph no.3 that no confiscation proceeding has been initiated.

Let the aforesaid facts, mentioned in the



supplementary affidavit, be treated as part of the main writ petition.

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

The petitioner prays for provisional release of the Hero Glamour Motorcycle bearing registration No. BR53D-2330 which has been seized in connection with Mednichowki P.S. Case No. 90 of 2018 registered for offence punishable under section 30(a), 32(2), 38(i) of the Bihar Prohibition & Excise Act.

It is stated by learned counsel for the petitioner that 20 liters country made liquor has been seized; the confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the motorcycle and 20 liters of country made wine. He further submits that the petitioner has not been made accused in the present case. The petitioner is the owner of the alleged motorcycle.

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 designated court below 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 designated 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, which would however be subject to initiation and finalization of the confiscation proceeding, if any.

With the observations above, this writ petition is allowed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

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