

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19834 of 2019

=====

Dipa Devi, Aged about 32 years, Female, Wife of Anil Kumar, Resident of
Village- Chak Jamal Mahdaiya, P.s.- Minapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Superintendent of Police, Muzaffarpur.
4. The Superintendent of Excise, Muzaffarpur.
5. The Officer-in-Charge, Siwaipatti, P.S. District- Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Rajive Ranjan Singh
For the Respondent/s : Mr.Vivek Prasad (GP7)

=====

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

The petitioner prays for provisional release of the Pick-Up bearing registration No. BR06GC-8367, which has been seized in connection with Siwaipatti P.S. Case No. 46 of 2019 (G.R. No. 693 of 2019) for the offences punishable under sections 272, 273, 120(B) and 34 of the Indian Penal Code and Section 30, 30(A), 38 and 41(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 738 litres of India Made Foreign 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 Pick-up and 738 litres of India Made Foreign Liquor.

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 papers with respect to vehicle in question before the designated court below with two sureties along with a Bank Guarantee proportionate to the value of the vehicle, looking to the age as indicated in the insurance document. He will renew the Bank Guarantee before expiry, failure to do, the amount of money, mentioned in the Bank Guarantee, would be remitted to the State. The petitioner while submitting the surety and the Bank Guarantee 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 change the feature of 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 production of ownership/registration papers supporting the claim of the petitioner together with one surety (local) along with the Bank Guarantee proportionate to the value of the vehicle looking to the age as indicated in the insurance document and the undertaking, as stated above. This would, however, be subject to the final order passed in the confiscation proceeding.

It is made clear that the vehicle shall be released subject to grant of bail to the petitioner in the aforesaid criminal case.

With the observations above, this writ petition is allowed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

rishi/-

U			
---	--	--	--

