

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19881 of 2019

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Brahamdeo Prasad Son of late Jivlal Yadav, Resident of Mohalla- Dayara,
Aziz Ghat,P.S. Bihar, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise,
Bihar,Patna.
2. The District Magistrate, Nalanda at Bihar Sharif.
3. The Superintendent of Police, Nalanda at Bihar Sharif.
4. The Station House Officer, Sohsarai, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anil Kumar No.1, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP7)

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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
Scorpio vehicle bearing registration No. BR-02V-5563, which has
been seized in connection with Sohsarai P.S. Case No. 194 of 2019
for the offence punishable under sections 30(a) & 37 (C) of the
Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that 375
ml. of IMFL has been seized, the petitioner has not been made an
accused, 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 said vehicle and 375 ml. of IMFL.

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 as also subject to verification and authenticity of the petitioner.

With the observations above, this writ petition is allowed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	21.12.2019
Transmission Date	N.A.

