

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19787 of 2019

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Naresh Kumar Beldar, Son of Nanku Beldar, resident of mohalla-Rajendra Ashram, P.S.-Civil Lines, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise, Government of Bihar at Patna.
2. The District Magistrate, Gaya.
3. The Superintendent of Police, Gaya.
4. The Inspector of Excise, Integrated Check Post Dobhi, P.S.-Dobhi, District-Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ramashish, Advocate
For the Respondent/s : Mr.Vivek Prasad, GP-7

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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 for the State.

The petitioner prays for provisional release of the Auto Vacksy Tempo bearing Registration No.BR02PA-1770, Engine No.A6G1011668, Chassis No. MCS3E7D21HAHO 5245, which has been seized in connection with Excise Case No.526 of 2019 for the offences punishable under section 30 (Ga) of the Bihar Prohibition and Excise (Amendment) Act, 2018 and sections 2 (e), 3, 5 (b) and 13 of the Bihar State



Mahua Flower Rules, 2006.

It is stated by learned counsel for the petitioner that the petitioner has not been made as 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 reflects the seizure of 225 kg. mahua flower.

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, who is owner of vehicle, on production of ownership and registration with respect to vehicle in question in his name before the Court below with one surety and security to the satisfaction of court proportionate to the extent of the value of the vehicle looking to the age of vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, as the case may be, 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, if any, and shall not alienate the vehicle during this period and will not change to feature of vehicle in any manner.

(iii) The petitioner shall furnish an undertaking to produce the vehicle before the Court or confiscating authority or any other authority as and when required.

(iv) Prior to release of the vehicle, a *Panchanama* would be got 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 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 along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance amount and the undertakings as stated above. This release of the vehicle would, however, be subject to initiation and finalisation of the confiscation proceeding. The owner book shall remain in safe



custody of the Court below subject to final decision in the
confiscation proceedings.

With the observations/directions above, this writ
petition is allowed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.12.2019
Transmission Date	N/A

