

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19791 of 2019

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Dharmendra Kumar, aged about 22 years (Male), son of Munna Choudhary,
Resident of Village- Mahua Shahid P.S.- Nagar, District- Aurangabad.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate - Cum - Collector, Aurangabad.
3. The Senior Superintendent of Police, Aurangabad.
4. The Excise Superintendent, Aurangabad.
5. The Sub Inspector, Nabinagar Police Station, District- Aurangabad.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Vishwa Ranjan Choudhary, Advocate
For the Respondent/s : Mr. Vikash Kumar, S.C.-11

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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 is the owner of an Auto Rickshaw
and he prays for provisional release of the said Auto Rickshaw
bearing Registration No. BR-26PA-4257, which has been seized



in connection with Excise Case No. 689 of 2019 for the offence punishable under Section 30(a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the petitioner that 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 280 liters of country made liquor as well as 23.40 liters of Beer.

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 proportionate to the value of the vehicle, looking to the age 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, if any, and shall not alienate the vehicle during this period as well as he will not change the feature of the vehicle in any manner.

(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 got 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 or proceeding.

The release of the vehicle shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above. This release of the vehicle would, however, be subject to initiation and finalization of the confiscation proceeding.



With the aforesaid observations and directions, this writ petition is allowed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

Pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	19.12.2019
Transmission Date	

