

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20136 of 2019

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Lalit Kumar Yadav @ Lalit Kr. Yadav Son of Ram Dayal Ray @ Ram Dayal Yadav Resident of Mohalla- Chunabhati Road, Malighat, Musahari, Police Station- Mithanpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
2. The District Magistrate cum Collector, East Champaran, Motihari.
3. The Superintendent of Police, East Champaran, Motihari.
4. The Officer in Charge, Kundwa Chainpur, Police Station, District- East Champaran, Motihari.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhurendra Kumar
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 : 20-12-2019

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 Van bearing registration No. BR-06GC-2366, which has been seized in connection with Kundwa Chainpur P.S. Case No. 172 of 2018 for the offences punishable under Sections 272, 273/34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.



It is stated by learned counsel for the petitioner that 1575 litres of Nepali 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 aforesaid vehicle and 1575 litres of Nepali liquor. It is further stated that the petitioner has been made an accused in this case and final form has been submitted against him. It is also stated that before institution of the present case, the petitioner has lodged a case bearing Mithanpura P.S. Case No.475/2018 under Section 379 IPC against unknown for theft of his aforesaid vehicle.

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 Bank Guarantee proportionate to the value of the vehicle, looking to the age of the vehicle as indicated in the insurance document. The petitioner would renew the Bank Guarantee before its expiry, failure to do, the money will be transferred to the State We also direct provisional release of the



vehicle for six weeks subject to release from the court concerned where Mithanpura P.S. Case No.475/18 is pending. In the event of failure to obtain the release order, the petitioner would deposit the vehicle at the place from where the vehicle has been released.

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 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 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/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 would, however, be subject to initiation and finalization of the confiscation proceeding.

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	07.01.2020
Transmission Date	N.A.

