

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19812 of 2019

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Pintu Kumar Singh @ Pintu Singh, aged about 23 years, Male, Son of Ram Iswar Yadav, Resident of Mohalla- Gaushganj, P.S. Ara Town, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The Commissioner, Patna Division, Patna.
3. The Collector, Bhojpur at Ara, Distt. Bhojpur.
4. The S.H.O. of O.P. (Khawashpur) Barhara, District- Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajani Ranjan Pd. Singh
For the Respondent/s : Mr.Kumar Manish (SC5)

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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 Learned counsel for the petitioner prays for and is allowed to make necessary correction in paragraph no.8 of the present petition.

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

The petitioner prays for provisional release of the TVS Apache motorcycle bearing registration No. BR-03Y-6307 which has been seized in connection with Barhara (Khawashpur) P.S. Case No. 142 of 2019 District Bhojpur for the offences punishable under section 30(A) of the Excise Act.

It is stated by learned counsel for the petitioner that



22.600 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 motorcycle and 22.600 liters of India Made Foreign Liquor.

The petitioner has not been made accused in the present case.

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.

With the observations above, this writ petition is allowed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

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