

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20233 of 2019

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Ranjeet Prasad Singh son of Uma Shankar Prasad Singh resident of Village Chhitrauli, P.S. Goraul, District Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Prohibition and Excise, Government of Bihar, Patna.
2. The Principal Secretary, Department of Prohibition and Excise, Government of Bihar, Patna.
3. District Magistrate, Patna.
4. Superintendent of Excise, Patna.
5. Sub Inspector, Prohibition and Excise, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Md.Imteyaz Ahmad, Advocate
For the Respondent/s	:	Mr. Nilesh Kumar, Advocate Mr.Vikash Kumar (Sc11)

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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-06GA-1712, which has been seized in connection with Excise Case No.7217 of 2019 for the offences punishable under Section 30(k) & 56 (kh) of the Bihar Prohibition and Excise Act, 2016.



It is stated by learned counsel for the petitioner that 325 litres of Toddy has been seized, the petitioner has not been made an accused in this case, 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 325 litres of toddy.

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 one surety (local) 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 would be transferred to the State.

The petitioner while submitting the surety and the Bank Guarantee 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.

The release shall be allowed within a period of 14 days from the date of production of one surety (local) alongwith the Bank Guarantee proportionate to the value of the vehicle, looking to the age of the vehicle as indicated in the insurance document and the undertaking, 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.

