

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20029 of 2019

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Satendar Rai @ Satyendra Ray son of late Rampratap Ray @ late Rampratap Rai Resident of Village- Ekdanga, Police Station- Mirganj, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Prohibition and Excise, Government of Bihar, Patna.
2. The Collector/ District Magistrate, Gopalganj, District- Gopalganj.
3. The Excise Superintendent, Gopalganj, District- Gopalganj.
4. The Superintendent of Police, Gopalganj, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Umesh Kumar Singh
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 ORDER

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

2 16-12-2019 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner prays for provisional release of the Maruti Suzuki Alto bearing Registration No. BR28M0318, which has been seized in connection with Mirganj P.S. Case No. 297 of 2018 for the offences punishable under Sections 272,273 of the I.P.C. and 30 (a) of the Bihar Prohibition and Excise Act, 2016.

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 164 liters of English wine.

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 one surety along with a Bank Guarantee proportionate to the value of vehicle looking to its age mentioned 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, 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.

(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.

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 finalization of the confiscation proceeding. The Bank Guarantee shall remain in safe custody of the designated 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)

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