

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20166 of 2019

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Halim Khan @ Haleem Khan, S/o Sadik Khan @ Sadique Khan, Resident of
Village- Bhada Kala, P.O.- Mahodipur, P.s.- Siwan Muffasil, District- Siwan

... .. Petitioner/s

Versus

1. The State of Bihar, through its Secretary, Excise Department, Govt. of Bihar, Patna
2. The Commissioner, Excise Department, Bihar, Patna
3. The Superintendent of Excise, Siwan
4. The Collector-cum-District Magistrate, Siwan
5. The Superintendent of Police, Siwan
6. The S.H.O. Siwan Muffasil Police Station, Distt.- Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ramadhar Shekhar, Adv.
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 JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 17-12-2019

Heard learned counsel for the petitioner and learned counsel
for the State.

The petitioner prays for provisional release of the Passion
Pro Motorcycle bearing Registration No. BR-29N-8530, which has
been seized in connection with Siwan Muffasil P.S. Case No. 60 of
2017 for the offences punishable under Sections, 272, 273, 308, 420
I.P.C. and Section 41 (i) 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 57 liters of IMFL.

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.

(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 observations and directions, this writ petition is allowed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

amitkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.12.2019
Transmission Date	N/A

