

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20318 of 2019

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Subhajit Ghosh, Son of Nihar Ranjan Ghosh, Resident at Jora Phatak, P.S.-
Dhansar, District- Dhanbad (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Excise Department,
Bihar, Patna.
2. The District Magistrate, Gaya, Bihar.
3. The Senior Superintendent of Police, Gaya, Bihar.
4. The Officer in Charge, Guraru Police Station, District Gaya, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Adv.
For the Respondent/s : 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 for the State.

The petitioner prays for provisional release of the one Ambulance of Maruti bearing Registration No. JH-10-BT-1792, which has been seized in connection with Guraru P.S. Case No. 113 of 2019 for the offences punishable under Sections 30 (a) (b) (c) 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 137 liters of country made and 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 one surety (local) along with a Bank Guarantee proportionate to the value of the vehicle looking to the age as indicated in the insurance document. The petitioner would renew the Bank Guarantee before its expiry failing which 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 or proceeding.

The release of the vehicle 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 (local) along with the bank guarantee proportionate to the value of the vehicle looking to the age as indicated in the insurance document 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	07.01.2020
Transmission Date	N/A

