

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14076 of 2018

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Mahendra Prasad Yadav @ Mahendra Prasad Yadav, S/o Late Ram Lakhan
Yadav, R/o Gobrani P.S. Jainagar Dist. Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Madhubani
2. The Superintendent of Police, District Madhubani
3. The In-charge of Police Station, Jainagar Dist. Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Md. Soban Asghar
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

4 07-01-2019 Heard Mr. Soban Asghar, learned counsel for the

petitioner and Mr. Vikash Kumar, learned S.C.-11 for the

State.

The petitioner prays for provisional release of the
motorcycle bearing Registration No. BR-32T 1029, Engine
No. BE4DH2042773, Chasis No. MD634BE4XH2D42074,
which has been seized in connection with Jainagar P.S. Case
No. 201 of 2018 for the offences punishable under Sections
272, 273, 414, 34 of the Indian Penal Code read along with
side Section 30(a) of the Excise Act.

It is stated by Md. Asghar, 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 36 liters of Nepali country made liquor.

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 court below with one surety along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, 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 further.

(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 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 would, however, be subject to the final order passed in the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

shailendra/Brajesh-

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