

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16232 of 2018

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Nagendra Bind Son of Bachchu Bind Resident of Village- Sarfrac Bigha, P.O.
Kespa, P.S. Alipur, District Gaya (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department, Govt. of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Aurangabad.
3. The Superintendent of Police, Aurangabad.
4. The S.H.O. Police Station, Fesar, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Leelawati Kumari, Advocate
For the Respondent/s : Mr. Anil Kumar Sinha - GA-1

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

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

2 07-01-2019 Leave is granted to learned counsel for the

petitioner to correct the station of respondent No. 2 and

3 in course of the day in the official record as well as in

the file of the respondents.

Heard learned counsel for the petitioner and

learned counsel appearing on behalf of the State.

The petitioner prays for provisional release

of the Honda Shine Motorcycle bearing Registration



No. BR02AG9429, Chasis No. ME4JC651EG7342600
Engine No. JC65E70513101, which has been seized in
connection with Fesar P.S. Case No. 36 of 2018 for the
offences punishable under Section 30(a) of the Bihar
Prohibition and Excise Act.

It is stated by learned counsel for the
petitioner that no confiscation proceeding is pending
and the vehicle is lying under the open sky in the police
station. The seizure list reflects the seizure of 400 ml
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 no confiscation proceeding is pending, 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 two
sureties (one local) to the extent of the value 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 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.

Subject to the above conditions, following the views expressed by the Hon'ble Division Bench of this Court and in tune with that, we dispose of this application.



The release shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above. This would, however, be subject to initiation and finalization of the confiscation proceeding if any.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

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