

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16286 of 2018

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Deepak Kumar Sah Son of Pardeep Kumar Sah Resident of Village-Gudri
Bazar Azamnagar, P.S. Azamnagar, District-Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
2. The District Magistrate, Katihar,
3. The Superintendent of Excise, Katihar, District Katihar.
4. The S.I. Abadpur Police Station, District Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Md. Musowir

For the Respondent/s : Mr.Vivek Prasad - GP7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 25-02-2019

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner prays for provisional release of the
100 packets of rice weighing 23 Kg each, 50 cartons of
Dreamlight Biscuits, 34 bags of Murhi each containing 15 Kg,
Samsung Mobile Phone with Airtel sim bearing no.
8292798732, Samsung Mobile Phone with sim bearing No.



7903150367, Lava Mobile phone with airtel sim bearing no. 7782818413, cash to the tune of Rs. 71,000/- and a pick-up van bearing Registration No. BR-11GA-1314, which have been seized in connection with Abadpur P.S. Case No. 144 of 2017 for the offences punishable under Sections 30(a) of the Bihar Prohibition and Excise Act.

It is stated by learned counsel for the petitioner that confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 2.250 liters of I.M.F.L.

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 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 District Magistrate-cum-Collector, Katihar with two sureties 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 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 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, the District Magistrate-cum-Collector, Katihar would get prepared a *Panchanama* 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 submission of the sureties and the undertakings as stated above. This release would, however, be subject to the final orders passed in the confiscation



proceeding.

With the observations/directions above, this writ
petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.03.2019
Transmission Date	NA

