

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17451 of 2018

=====

Tofani Sah Son of Chaitu Sah, Resident of Bhawanipur, Police Station-
Bhawanipur, in the District of Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Collector-cum-District Magistrate, Purnea.
3. Superintendent of Police, Purnea.
4. S.H.O., Bhawanipur P.S., District- Purnea.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Raj Kumar, Adv.
For the Respondent/s : Mr. Vikash Kumar -Sc11

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 18-02-2019

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

This application has been filed seeking provisional
release of the vehicle bearing Registration No. BR11M-9837,
which has been seized in connection with G.R. Case No. 4022 of
2016 (arising out of Baisi P.S. Case No. 215 of 2016) for the
offence punishable under Section 273 of the Indian Penal Code
and Section 30(a) of Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that
confiscation proceeding is pending and the vehicle in question



is lying under the open sky in the police station. The seizure list reflects the seizure of 30.750 litres 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 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 Collector-cum- District Magistrate, Purnea 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 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, a Panchanama would be got prepared by the Collector -cum- District Magistrate, Purnea 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 finalization of the confiscation proceeding.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Brajesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

