

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17570 of 2018**

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Jaylal Mahto Son of Badhan Mahto, Resident of Badgaon, P.O.- Suryapur,  
Police Station - Padma, District- Hazaribagh.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Excise Commissioner, Govt. of Bihar.
3. The Deputy Commissioner Excise Magadh.
4. The Assistant Commissioner Excise, Gaya.
5. The District Magistrate, Gaya.
6. The Senior Superintendent of Police, Gaya.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Indrajesh Kumar, Adv.  
For the Respondent/s : Mr. Kumar Manish -SC-5

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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 : 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 Tata Zest vehicle bearing Registration No.  
JH01AZ(T)5629, Engine No. 100A2000-0712760 and Chasis No.  
MAT624031HPJ25384 which has been seized in connection with  
Excise Case No. 151 of 2018 for the offence punishable under  
Sections 30(a) and 56(gh) 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 750 M.L 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 District Magistrate, Gaya 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 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 submission of the sureties and the undertakings as stated above. This release would however, be subject to initiation and finalization of the confiscation proceeding.

With the observations, this writ petition is allowed.

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**(Jyoti Saran, J)**

**( Arvind Srivastava, J)**

brajesh/-

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| <b>Uploading Date</b>    |  |
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