

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17631 of 2018

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Ajhar Alam @ Ajhar Son of Md. Hasib, resident of Village- Pachaili, Balua,
Police Station- Palasi, District- Araria.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar, Adv.
For the Respondent/s : Mr. Vikash Kumar -SC-1

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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 Motorcycle bearing Registration No. BR-37G-
0486, Engine No. HA10ELEHA47126 and Chasis No.
MBLHA10A3EHA18669 which has been seized in connection
with Special Case No. 2637 of 2017 (arising out of Jokihat P.S.
Case No. 290 of 2017) for the offence punishable under
Sections 272 and 273 of the Indian Penal Code and Sections
30(a) and 38(1) of Bihar Prohibition and Excise Act, 2016
(hereinafter referred to as 'the Act').



Learned counsel for the petitioner submits that for recovery of 150 bottles of Eskuf Syrup containing 100 M.L. of each, the motorcycle in question has been seized because according to the respondent, it is capable of being used as a substitute for an intoxicant. It is submitted that there is no information about confiscation proceeding.

Learned counsel for the State has not been able to clarify that whether or not the cough syrup so seized comes in the prohibited category of intoxicant or spirit or liquor or fermented liquor or illicit liquor under the Bihar Prohibition and Excise Act, 2016.

Having heard learned counsel for the parties and in the given facts and circumstances where no confiscation proceeding is presently pending and the seizure is of cough syrup, let the vehicle in question be released in favour of the petitioner on the petitioner's producing the document of ownership and registration 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 and an undertaking that he will not create third party rights during pendency of the proceeding.



The release shall be allowed within a period of 14 days from the date of production of ownership papers before the court below with the sureties along with the undertaking as stated above. This release, however, would be subject to the final order passed in the confiscation proceeding, if any.

The petitioner shall be at liberty to raise the issues whether or not the seized goods comes within the prohibited jurisdiction of ‘the Act’.

The writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Brajesh/-

AFR/NAFR	A.F.R.
CAV DATE	NA
Uploading Date	
Transmission Date	

