

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17878 of 2018

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Krishna Mohan Kumar Son of Kapildev Ray, Resident of Village-Harakhpura
Koral, Police Station-Garhpura, in the District of Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate-Cum-Collector, Begusarai.
3. The Superintendent of Police, Begusarai.
4. The Officer-in-Charge, Garhpura P.S. in the District of Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prabhu Narayan Sharma
For the Respondent/s : Mr.Kumar Manish -SC5

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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 : 11-03-2019

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

The petitioner prays for provisional release of the
vehicle bearing Registration No. UP-79F-2583, Engine No.
GF54M73124, Chasis No. MAIXA2GBFK52M57681, which
has been seized in connection with Garhpura P.S. Case No. 26
of 2018 for the offences punishable under Section 30(a) of the
Bihar Prohibition and Excise Act.

Learned counsel for the petitioner submits that though
there is recovery of about 4.560 liters of I.M.F.L. from the



vehicle of the petitioner, but the registration number has been wrongly mentioned as UP-79F-2528 in the first information report as well as in the seizure list. He further submits that that confiscation proceeding is yet to be initiated and the vehicle is lying under the open sky in the police station.

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 yet to be initiated, 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 designated court below with one surety along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, as the case may be, 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 as and when initiated 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 designated Court below 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 production of ownership/registration papers supporting the claim of the petitioner together with one surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance document and the undertakings as stated above. This release would, however, be



subject to the initiation and finalization of confiscation proceeding. The title deed papers, if produced, shall remain in safe custody of the court below subject to final decision in the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.03.2019
Transmission Date	NA

