

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17875 of 2018

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Sanjay Kapar Son of Pragash Kapar @ Ram Prakash Kapar, Resident of
Village-Khap, P.S.-Kanhauli, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, Sitamarhi.
4. The Superintendent of Police, Sitamarhi.
5. The Sub Inspector Excise, Sitamarhi.
6. The A.S.I. Cum SHO of Kanhauli Police Station, District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Birendra Kumar

For the Respondent/s : Mr.Vikash Kumar- Sc11

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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

Leave is granted to learned counsel for the petitioner
to make correction in the quantity of recovery at paragraphs 5
and 9 of the writ petition during course of the day.

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

This application has been filed seeking provisional
release of the Pulsar Motorcycle bearing Registration No. BR-
30Q-4090, Engine No. DHZRGE05336 and Chasis No.
MDZA11CZ8GRE04815 which has been seized in connection
with Kanhauli P.S. Case No. 34 of 2018 for the offence



punishable under Sections 272 and 273 of the Indian Penal Code and Sections 30(a) of Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner states that as per the seizure list 30.300 litres of Nepali Saufi have been recovered from the vehicle in question. It is submitted that there is no information about confiscation proceeding.

Learned counsel for the petitioner submits that the vehicle in question is lying under open sky in the Police Station and if release is not allowed the vehicle is likely to become a junk and in such circumstance, the State is not going to gain anyway in confiscation proceeding. Learned counsel submits that the petitioner is willing to provide such surety and undertakings which may be required to protect the interest of the State during the pendency of the confiscation.

Having heard learned counsel for the parties and in the given facts and circumstances where no confiscation proceeding is presently pending, let the vehicle in question be released provisionally in favour of the petitioner on the petitioner's producing the document of ownership and registration in his name before designated Court below 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 designated 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 along with the



undertakings as stated above. This release, however, would be subject to the final order passed in the confiscation proceeding, if any.

The writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

brajesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

