

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19724 of 2018

=====

Md. Jamshed Ali son of Md. Abushlah, resident of Village- Karua, Police Station- Chautham, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Secretariat, Patna.
2. The Collector, Khagaria.
3. The Excise Superintendent, Khagaria.
4. The Motor Vehicle, Inspector, District Khagaria.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Jai Kishor Poddar, Advocate
For the Respondent/s : Mr. Kumar Manish -SC5

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-04-2019

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

This application has been filed seeking provisional release of the Motorcycle bearing Registration No. BR34B9966, Chasis No. MD634KE40E2A 55077, Engine No. Oe4ae2545756, which has been seized in connection with Chautham P.S. Case No. 148 of 2018 registered under section 30(a) of the Bihar Prohibition and Excise Act.

Learned counsel for the petitioner submits that for recovery of 48 bottles of Cough Syrup each containing 100 ml.,



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 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 prohibitory jurisdiction of ‘the Act’.

The writ petition is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Nasimul/Manish

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19-04-2019
Transmission Date	N/A

