

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.896 of 2019

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Rajan Kumar Agrawal @ Rajan Agrawal R/o Vidya Nagar, Harmu Road No. 1, P/O Harmu, P.S. Sukhdeo Nagar, Ranchi.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Excise Department of Prohibition Registration, Government of Bihar, Patna.
2. The Collector Cum District Magistrate, Gaya.
3. The Superintendent of Excise, Gaya.
4. The Senior Superintendent of Police, Gaya.
5. The Officer-in-Charge of Fatehpur Police Station, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sudhir Kumar Sinha, Adv.
For the Respondent/s : Mr.Vikash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 10-05-2019

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

The petitioner prays for provisional release of the
Motorcycle bearing Registration No. JH 01AX/5919 which has
been seized in connection with Kothi P.S. Case No. 30 of 2018
for the offences punishable under Sections 272 and 273 of the
Indian Penal Code and Section 30(a) of Bihar Prohibition and
Excise Act, 2016.

It is stated by learned counsel for the petitioner that



confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list reflects the seizure of 15 litres of country made (Mahua) liquor.

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 further.

(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 District Magistrate, Gaya 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 if any.

With the observations, this writ petition is allowed.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2019
Transmission Date	NA

