

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18614 of 2018

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Vivek Kumar Son of Late Ganesh Ram Resident of Village - Jhakhari, Police
Station - Amnour, District - Chapra Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar through Secretary of Excise Department, Bihat at Patna
2. The Collector-cum-District Magistrate, Kishanganj.
3. Superintendent of Police, Kishanganj.
4. S.H.O. Dighalbank P.S. District - Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Raj 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 : 01-04-2019

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

The petitioner prays for provisional release of
the Honda Shine Dream Yuga bearing Registration No. BR-
04N-6718, Chesis No. ME4JC589DET136153, Engine No.
JC58E83222805, which has been seized in connection with
Dighalbank P.S. Case No. 25 of 2018 for the offences
punishable under Sections 272 and 273 of the Indian Penal



Code and Sections 30(a), 41(1), 44(1) of the Bihar Prohibition and Excise Act.

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 first information report reflects the seizure of 18 liters of Nepali liquor though it does not find mention in the seizure list.

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-cum-Collector, Kishanganj with two sureties 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, the District Magistrate-cum-Collector, Kishranganj 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 submission of the sureties and the undertakings as stated above. This release of the vehicle would, however, be subject to finalization of the confiscation



proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.04.2019
Transmission Date	NA

