

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20465 of 2018

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Vishal Kumar, Son of Nand Kishore Prasad, resident of Village- Dhuvalia,
P.S.- Manjhagarah, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise, Government of Bihar, Patna.
2. The Principal Secretary, Excise, Government of Bihar, Patna.
3. The District Magistrate, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Excise Superintendent, Department of Excise, Gopalganj.
6. The Excise Inspector, Chada-2, District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Mishra, Advocate
For the Respondent/s : Mr. Anil Kr.Sinha -GAI

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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 : 15-04-2019

None appears on behalf of the petitioner. Learned
counsel for the State is present.

The prayer is for provisional release of the T.V.S.
Motorcycle bearing Registration No. BR28S1524, Chasis No.
MD634BE42H2L93341, Engine No. BE4LH2192199, which has
been seized in connection with Excise Case No. 488 of 2017 for
the offences punishable under Section 30(a) of the Bihar
Prohibition and Excise Act.



It is stated by learned counsel for the State that he has no information about initiation of the confiscation but the seizure list reflects the seizure of 15.12 liters of IMFL.

Having heard learned counsel for the State and taking note of the nature of seizure made, 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 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, if any, 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 and the undertakings as stated above. This release would, however, be subject to initiation and finalization of the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Nasimul/Shailendra

AFR/NAFR	NAFR
CAV DATE	N/A
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