

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16165 of 2018

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Sushil Kumar, Son of Mohan Lal Gupta, Resident of Village- Belpar Pandit,
Police Station- Bhatparani, District- Dewariya (U.P.) at present R/o Khampar,
Kalwari Tola, Deoria (U.P.).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Govt. of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Superintendent of Police, Siwan.
4. The Officer in Charge, Mairwa, Police Station- District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha - GA-1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

2 07-01-2019 Heard learned counsel for the petitioner and

learned counsel appearing on behalf of the State.

The petitioner prays for provisional release of the

TVS Apache motor cycle bearing Registration No. UP-52AR-

3080, Chasis No. BE4GH21D6989 Engine No.

MD634BE45H2G07094, which has been seized in

connection with Mairwa P.S. Case No. 142 of 2018 for the



offences punishable under Sections 272, 273, 34 of the Indian Penal Code and Section 30(a), 38(i), 41(i) of the 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 1.600 liter country made liquor and 9.150 liter foreign 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 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 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 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.

Subject to the above conditions, following the views expressed by the Hon'ble Division Bench of this Court and in tune with that, we dispose of this application.

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 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)

(Arvind Srivastava, J)

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