

**(2019) 07 PAT CK 0123**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 8658 Of 2019

Kajal Devi Prakash Kumar

APPELLANT

Vs

State Of Bihar Through Principal Secretary And Ors

RESPONDENT

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**Date of Decision :** 08-07-2019

**Acts Referred:**

Indian Penal Code, 1860 — Section 272, 273

Bihar Prohibition And Excise Act, 2016 — Section 30(a)

**Citation :** (2019) 07 PAT CK 0123

**Hon'ble Judges :** Jyoti Saran, J; Partha Sarthy, J

**Bench :** Division Bench

**Advocate :** Sanjeev Kumar Singh, Vikash Kumar

**Final Decision :** Allowed

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## **Judgement**

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

The petitioner prays for provisional release of the TVS Motorcycle bearing registration No. BR39S5573, Engine No. CF1BG1458596, Chassis No. MD625CF12G3B20723, which has been seized in connection with Azamnagar P.S. Case No. 132 of 2017 registered for the offences punishable under sections 272 and 273 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is stated by learned counsel for the petitioner that the confiscation proceeding is pending and the vehicle is lying under the open sky in the police station. The seizure list supports the seizure of the motorcycle, 11.250 litres of IMFL and 61.200 litres of country 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 her name before the District Magistrate, Katihar with one surety along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, as the case may be, 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, a Panchanama would be prepared by the District Magistrate, Katihar 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 one surety along with a Bank Guarantee or the original title deed of immovable property situated in the district, as the case may be, to the extent of the value of the vehicle as indicated in the insurance document and the undertakings, as stated above. This release would, however, be subject to finalization of the confiscation proceeding. The title deed papers shall remain in safe custody of the confiscating authority subject to final decision in the confiscation proceedings.

The writ petition is allowed.