

(2019) 07 PAT CK 0125

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 8697 Of 2019

Raj Kumar

APPELLANT

Vs

State Of Bihar Through The Principal Secretary And Ors

RESPONDENT

Date of Decision : 08-07-2019

Acts Referred:

Bihar Prohibition And Excise Act, 2016 — Section 30(a), 32(2)

Citation : (2019) 07 PAT CK 0125

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

Bench : Division Bench

Advocate : Anil Kumar Singh, Vikash Kumar

Final Decision : Allowed

Judgement

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

The petitioner prays for provisional release of the vehicle (Mahindra XUV-500) bearing Registration No. CH01AS-5015, Chassis No.MA1YL2HJUD6A15165 which has been seized in connection with Sikandra P.S. Case No. 64 of 2019 for the offences punishable under Section 30(a) and 32(2) of the Bihar Prohibition and Excise Act, 2016.

Mr. Anil Kumar Singh, learned counsel for the petitioner in reference to Annexure-2 submits that the petitioner is purchaser of vehicle and has taken delivery of the vehicle and even no objection has been granted by the Chandigarh administration for transfer of ownership but the ownership is yet to be transferred in his name.

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 387 litres of India made 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 papers supporting ownership and registration with respect to the vehicle in question in his name before the District Magistrate, Jamui together 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, Jamui 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.