

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1321 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- SASARAM (ROHTAS)

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Rama Kant Singh, Son of Late Ram Barai Singh, Resident of Village Balthari, P.S.
Kochas, District - Rohtas

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Home Department, Govt. of Bihar, Patna
 2. The Collector, Rohtas at Sasaram
 3. The Sub-Divisional Magistrate, Sasaram
 4. The Block Development Officer cum Block Supply Officer, Kargahar, Rohtas
- Respondents
- =====

Appearance :

For the Petitioner : Mr. Rajesh Kumar Singh, Advocate

For the Respondents : Mr. Nasrul Huda Khan, SC 1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 29-08-2017

Heard learned counsels for the parties.

2. The Tata Magic of the petitioner bearing registration No. BR02W-6238 was seized loaded with rice and wheat along with some other articles from the godown at Kochas and Kochas P.S. Case No. 157 of 2016 was registered under Section 7 of the Essential Commodities Act.

3. The petitioner filed a petition on 11.01.2017 before the District Magistrate, Rohtas (Sasaram) for release of the Tata Magic on the ground that petitioner is the owner of the Tata Magic and no purpose would be served in continuance of the seizure of the said vehicle, rather it would cause external and internal damage to the vehicle. The prayer is still pending in Confiscation Case No. 12 of



2016.

4. Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise power, of a judicial authority to confiscate the vehicle, is under sub judice before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). Hence, till disposal of the L.P.A. aforesaid, further proceeding in pursuance of the impugned order be stayed and the vehicle be released as ad interim custody in favour of the petitioner as no purpose is going to be served by its continued detention.

5. Learned counsel for the State-respondent submits that he has no objection.

6. Since the jurisdiction of the authority concerned (Executive Authority) to confiscate the vehicle is sub judice before this Court, there is no reason to not grant the interim relief to the petitioner till adjudication of the aforesaid issue.

7. Hence, it is ordered that the further proceeding of the above said confiscation case shall remain stayed and shall be subject to the result of the L.P.A. aforesaid.

8. Let the referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.4,00,000/- (rupees four lakhs) (not in the form of bank



guarantee or cash) along with two sureties of the like amount each with condition that the petitioner shall not dispose of the same without permission of the court and shall produce as and when required.

9. Accordingly, this application stands disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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