

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2066 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- NAWADA

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Dilip Kumar, Son of Late Heera Lal Singh, Resident of Village - Gola Badraji, P.S.
- Kauakol, District - Nawada

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary Excise Department, Patna.
2. The Collector/District Magistrate, Nawada.
3. The Superintendent of Police, Nawada.
4. The S.I. Gyaneshwar Prasad Singh, Roh Police Station, Nawada.
5. The S.H.O. of Roh Police Station, Nawada.

.... Respondents

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Appearance :

For the Petitioner : Mr. Virendra Kumar, Advocate

For the Respondents : Mr. Anil Kumar Sinha, G.A.1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsel for the parties.

This writ application has been filed for quashing the notice dated 19.05.2017, vide Annexure-3 issued in connection with Case No. 113(M) of 2017 arising out of Roh P.S. Case No. 17 of 2017 whereby the Collector, Nawada has asked the petitioner to explain as to why his Bolero bearing registration no. BR-27E/2536 be not confiscated.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise the power of confiscation, which is exercisable by a Judicial Authority, is under sub judice in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). Hence, the operation of the impugned order be stayed and the vehicle be released, by way of ad interim custody, in favour of the petitioner as no purpose is going to be served by its continued



detention.

I find substance in the submission aforesaid. Proceeding of the confiscation case aforesaid including the operation of impugned order is directed to remain in abeyance till disposal of the above referred L.P.A. The proceeding shall be subject to the result of the L.P.A. aforesaid.

Since, no purpose is going to be served by keeping the aforesaid vehicle in seizure, let the same be released in favour of the petitioner, who claims to be owner thereof, by way of ad interim custody, on execution of surety bond of Rs.6,00,000/- (rupees six 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 the vehicle as and when required by the Court.

The release shall be subject to the final result of the pending L.P.A. aforesaid.

With the aforesaid observation, this writ application stands disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	17.11.2017
Transmission Date	17.11.2017

