

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2311 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District-
EASTCHAMPARAN(MOTIHARI)

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1. Hasim Quaraise Son of Sareef Quaraisee, R/o Khoda Nagar, P.S.- Town
(Motihari), District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Excise Department,
Government of Bihar, Patna .
2. The District Magistrate, Motihari, District- East Champaran.
3. The Superintendent of Police, Motihari, District - East Champaran.
4. The Station House Officer, P.S., Turkaulia (Banjaria), District- East
Champaran.

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 28-11-2017

Heard learned counsel for the parties.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 22.09.2017 passed in connection with Turkauliya Police Station Case No.257 of 2017 by the learned Special Judge, Excise, Motihari, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Tempoo, bearing registration No.BR-05PA/3050, has been refused on the ground that Section 60 of the Act bars the jurisdiction of the Court.

3. Submission of the learned counsel for the petitioner is that no purpose would be served by continued detention of the vehicle; rather it would get rotten. Moreover, the jurisdiction of the



Executive Authority to exercise judicial power of confiscation and sale is subjudice before a larger Bench of this Court in **L.P.A. No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** Hence, till disposal of the L.P.A. aforesaid, the vehicle, in question, be released by way of interim custody in favour of the petitioner.

4. Learned counsel for the State-respondent opposed the prayer. However, does not dispute the factual position of pendency of the L.P.A. aforesaid.

5. In the circumstances, let the above referred vehicle be released by way of ad interim custody in favour of the petitioner on execution of surety bond of Rs.1,00,000/- (One Lac), not in the form of cash/Bank Guarantee, along with two sureties of the like amount to the satisfaction of the learned Court-below/authority concerned where the case is pending, with condition that the petitioner would not dispose of the said vehicle without permission of the authority concerned and shall produce as and when required by the Court. The release order shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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