

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1030 of 2017

Arising out of P.S.Case No. - Year - Thana - District - AURANGABAD

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Raghwendra Singh, Son of Late Shiv Kumar Singh, Resident of Village - Palamu (Jharkhand), at present New Area Aurangabad, P.S. - Aurangabad, District - Aurangabad, Bihar

.... Petitioner

Versus

1. The State of Bihar.
2. The Commissioner, Excise, Patna, Bihar
3. The Collector, Aurangabad
4. The Superintendent of Excise, Aurangabad

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Nandan Sahay, Advocate

For the Respondents : Mr. Vivek Prasad, G.P.VII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 18-07-2017

This writ application is directed against the order dated 25.05.2017 passed by the District Magistrate-cum-Collector, Aurangabad in connection with Excise Confiscation Case No. 27 of 2017 vide Annexure-3 whereby the Collector has refused to release the seized bus bearing registration no. JH-03B-2604. The said vehicle was seized in connection with Excise Case No. 34 of 2017 registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016. The Collector has confiscated the said vehicle.

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 continued detention.

I find substance in the submission aforesaid, hence, 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 bus 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.20,00,000/- (rupees twenty lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount 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.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
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