

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Writ Jurisdiction Case No.492 of 2017**

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

=====

1. Subhash Rai Son of Ramashankar Rai Resident of Mohalla G-84, Gali No. 35, Mahaveer Enclave Part 3 Dwarika Sector-2, New Delhi-110059.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate-cum Collector, Muzaffarpur.
3. Officer Incharge , Kudhani Police Station, Sub-Division, Muzaffarpur, West District- Muzaffarpur.

.... .... Respondent/s

=====

**Appearance :**

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

For the Respondent/s : Mr. Lalit Kishore, AG

=====

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

**ORAL JUDGMENT**

**Date: 15-11-2017**

Heard learned counsel for the petitioner and the State.

2. Cycle parts of the petitioner were being carried on a truck bearing registration No.HR69B-1673. On the same truck some liquor was recovered by the respondent authorities and for that recovery Kudhni P.S. Case No.308 of 2016 was registered for the offences under Sections 272/273/290/34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. The present writ application has been preferred for release of the goods known as cycle parts, which were being carried on the said truck for the reason that these goods have committed no offence nor they are part of the offence. The Collector, Muzaffarpur,



in Confiscation Case No.37 of 2016-17 has refused to release the cycle parts only on the ground that the same was seized along with the liquor and were used for hiding the liquor.

4. The reason assigned by the Collector is not acceptable for the simple reason that in authorized manner cycle parts were being carried from one destination to another and if on the way the driver has committed some offence, as in the present case, loaded some liquor it cannot be said that the cycle parts were loaded for the purpose of hiding the liquor.

5. Therefore, the authorities are directed to release the cycle parts in favour of the petitioner without any delay on petitioner's furnishing surety bond of Rs.1,00,000/- (One Lac), not in the form of bank guarantee/cash, with two sureties of the like amount to the satisfaction of the learned Court-below/authority concerned where the case is pending.

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

**(Birendra Kumar, J)**

Mkr./-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 17.11.2017 |
| Transmission Date | 17.11.2017 |

