

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.501 of 2017

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

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Pintu Kumar, S/o Hira Rai @ Hiralal Rai R/o Saguna, Mainpura, Ashok Tal, P.S.-
Danapur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise and Prohibition Department.
2. The District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna
4. The Superintendent of Police, (Rural).
5. The Dy. Superintendent of Police, Danapur, Patna.
6. The S.H.O., Bihta Police Station, Bihata, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-05-2017

Heard the parties.

2. The Maruti Wagon R of the petitioner bearing Reg.
No.BR-01 BP/0936 was seized in connection with Bihta P.S. Case
No.926 of 2016, a case under Section 30(a) of the Bihar Prohibition
and Excise Act, 2016.

3. The petitioner has invoked the writ jurisdiction of
this Court for release of aforesaid vehicle on the ground that Section
60 of Act bars jurisdiction of the courts and confiscation proceeding
has not been initiated as yet.

4. Learned counsel for the respondents prays for time
to seek instructions as to whether confiscation proceeding has been
initiated in respect of the said vehicle or not.



5. The question of law as to whether an executive authority can exercise power of confiscation or auction, which is exercisable only by judicial authority, is under consideration before a Larger Bench of this Court in LPA No.1647 of 2015. Considering the aforesaid facts, in CWJC No.1791 of 2017 a Division Bench of this Court has ordered for release of the seized vehicle in favour of petitioner of that case.

6. Considering the aforesaid facts, let the aforesaid vehicle be released in favour of the petitioner by the court below/District Magistrate after verification of the ownership of the vehicle of the petitioner by way of ad-interim custody on execution of surety bond of Rs.7,00,000/- (seven lacs) along with two sureties of the like amount with condition that the petitioner shall not dispose of the said vehicle without permission of the court and shall produce as and when required by this Court. This order shall be subject to result of the LPA aforesaid.

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

Arvind/-

(Birendra Kumar, J)

AFR/NAFR	
CAV DATE	
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