

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.440 of 2017

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

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MD. MANGAN @ MANGAN MIYA, Son of Ranjeet Miyan, Resident of Dumar,
Police Station- Pothia, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Katihar.
2. The Superintendent of Police, Katihar.
3. The Officer-in-Charge, Police Station- Kursela, District- Katihar.
4. The Sub Inspector, Police Station- Kursela, District- Katihar.
5. The Investigating Officer of Kursela Police Station case No. 13 of 2017, Police Station- Kursela, District- Katihar.

.... 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: 04-05-2017

Heard the parties.

2. This writ application has been filed for quashing the order dated 18.02.2017 passed in Kursela P.S. Case No.13 of 2017 by the learned Additional Chief Judicial Magistrate-III, Katihar, whereby the learned court below has rejected the prayer of the petitioner for release of the commercial three wheeler vehicle bearing Reg.No.BR-11E-5908 seized for alleged violation of the excise laws. The prayer has been refused on the ground that the court has no power to release such articles in view of the specific bar under Section 60 of the Act.

3. The question of law as to whether an executive



authority can exercise judicial power of confiscation or release of the vehicle, is under consideration before a Larger Bench 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.

4. Considering the aforesaid facts, let the aforesaid commercial vehicle be released in favour of the petitioner after verification of the ownership of the vehicle of the petitioner by way of ad-interim custody on execution of surety bond of Rs.2,00,000/- (two lacs) along with two sureties of the like amount with condition that the petitioner shall not dispose of the said commercial vehicle and shall produce as and when required by this Court. This order shall be subject to result of the LPA aforesaid.

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

Arvind/-

(Birendra Kumar, J)

AFR/NAFR	
CAV DATE	
Uploading Date	12.05.2017
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