

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.701 of 2017

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

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1. Kamod Thakur Son of Ram Awatar Thakur, Resident of Village- Madhopur,
P.S.- Mejarganj, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar Through The District Magistrate, Sitamarhi,
2. The Superintendent of Police, Stiamarhi.
3. The Excise Superintendent , Sitamarhi.
4. The Officer-In-Charge, Sitamarhi Police Station, District- Sitamarhi.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Hans Lal Kumar, Advocate
For the Respondent/s : Mr. Vivek Prasad, G.P.-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 18-07-2017

Heard learned counsel for the petitioner and the State.

The motorcycle of this petitioner, bearing registration No.BR30H-2235, was seized in connection with Mejorganj P.S. Case No.186 of 2016, under Sections 272/273 of the Indian Penal Code and Section 47 of the Bihar Prohibition and Excise Act, 2016.

By the impugned order dated 23.12.2016, passed in confiscation Case No.65 of 2016, the District Magistrate, Sitamarhi, refused to release the referred motorcycle in favour of the petitioner and directed the Officer Incharge Majorganj P.S. to confiscate the same.



Submission of the petitioner is that the issue as to whether the Collector has authority to confiscate and auction the vehicle, which is a judicial function, is subjudice before a larger Bench of this Court in LPA No.1647 of 2015 and considering the pendency of the aforesaid LPA in other matters different Division Benches of this Court have ordered for interim release of the vehicle in favour of the owner.

Learned counsel for the respondent has no objection in interim release of the vehicle in favour of the petitioner. However, his submission is that release would be subject to the result of the L.P.A. and the pending confiscation proceeding.

Considering the facts and circumstances above, let the aforesaid 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.50,000/- (Fifty Thousand) not in the form of cash/Bank Guarantee along with two sureties of the like amount 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. Further proceeding of Confiscation Case No.65 of 2016, arising out of Mejorganj P.S. Case No.186 of 2016, shall remain stayed till disposal of the L.P.A aforesaid and shall be subject to the result of the L.P.A.



aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

