

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.960 of 2017

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

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1. Indal Mahto Son of Rajdeo Mahto Resident of Village - Yogawana, P.S. -
Bathnaha, District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department
2. The Collector/District Magistrate, Sitamarhi.
3. The Superintendent of Police, Sitamarhi.
4. The Police Sub-Inspector Sanjiv Kumar, P.S. Sonbarsa, Sitamarhi.
5. The S.H.O. P.S. Sonbarsa, Sitamarhi.

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 25-07-2017

Heard learned counsel for the petitioner and the State.

The Tempo of this petitioner, bearing registration
No.BR30P-7261, was seized in connection with Sonbarsa P.S. Case
No.204 of 2016, under Sections 272/273 of the Indian Penal Code and
Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The husband of the petitioner filed application on
14.03.2017 for release of the above referred Tempo before the District
Magistrate, Sitamarhi, in Confiscation Case No.17 of 2017, arising
out of Sonbarsa P.S. case No.204 of 2016, but till date District
Magistrate, Sitamarhi has not passed any order in this regard.

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 Tempo 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.1000000/- (One Lac) 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.17 of 2017, arising out of Sonbarsa P.S. Case No.204 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	NAFR
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