

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.891 of 2017

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

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Sonu Kumar, Son of Surendra Prasad Yadav, Resident of Mohalla - Dahiyawa
Tola, P.S. - Town Chapra, District - Saran at Chapra

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna
2. The Excise Commissioner, Saran at Chapra
3. The District Magistrate-cum- District Collector, Saran at Chapra
4. The Superintendent of Police, Saran at Chapra, District - Saran
5. The Senior Deputy Collector, District Legal Cell, Saran at Chapra, District -
Saran.
6. The Incharge Excise Superintendent, Saran, District- Saran.
7. The Officer Incharge, Police Station - Kopa, District - Saran at Chapra.

.... Respondents

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Appearance :

For the Petitioner : Mr. Anil Kumar Tiwary, Advocate

For the Respondents : Mr. Madan Mohan, A.C. to S.C.-V

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-07-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of Mahindra
Scorpio S6 + 2.2 Hawk 1H 2WD75 vehicle bearing chassis no.
MA1TA2WGXG2K39848, engine no. WGG4K31440 which was
seized in connection with Kopa P.S. Case No. 145 of 2016 for alleged
violation of the Excise Laws.

By the order dated 08.02.2017, the learned Additional
Chief Judicial Magistrate-IV, Saran refused to release the vehicle in
favour of the petitioner for the reason that Section 60 of the Bihar
Prohibition and Excise Act, 2016 bars jurisdiction of the court in such



matter. Thereafter, the Collector, Saran at Chapra/respondent no. 3 initiated a confiscation proceeding bearing Confiscation Case No. 10 of 2017 and by order dated 11.05.2017 confiscated the above mentioned vehicle of the petitioner.

The said order of confiscation is under challenge in this criminal writ petition.

The State-respondents, in their counter affidavit, have challenged the prayer on the ground that the order of the court below is consistent with the law applicable, hence, requires no interference.

Considering the fact that power, of the Executive Authority to confiscate and auction the seized articles which is a judicial power, is under challenge before a Larger Bench in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) as well as considering the fact that different Division Benches of this Court have ordered interim release of the seized vehicle in favour of the owner of the vehicle, operation of the impugned order dated 11.05.2017 passed by the respondent no. 3-District Magistrate-cum-District Collector, Saran at Chapra in connection with Confiscation Case No. 10 of 2017 shall remain stayed till final result of L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**).

In the meantime, let the vehicle in question be released in favour of the petitioner on execution of surety bond of



Rs.7,00,000/- (rupees seven lakhs) along with two sureties with condition that the petitioner shall not dispose of the same and the petitioner shall produce the vehicle as and when required by the court.

This order shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	14.07.2017
Transmission Date	14.07.2017

