

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1065 of 2017

Arising out of P.S. Case No. – null Year - null Thana - null District - BEGUSARAI

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Sujeet Kumar Singh, Son of Late Sukhdeo Singh, Resident of Village - Gaura, P.S.-
Teghra, District - Begusarai

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Excise, Government of Bihar, Patna
2. District Magistrate-Cum-Collector, Begusarai
3. Superintendent of Police , Excise, Begusarai

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Kumar Thakur, Advocate
Mr. Ravi Ranjan, Advocate

For the Respondents : Mr. Pawan Kumar, A.C. to G.A. 1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 25-08-2017

Heard learned counsels for the parties.

2. The petitioner is owner of truck bearing registration no. BR09M-9098. The said truck was seized in connection with Phulwaria Police Station Case No. 169 of 2016 for alleged violation of the Excise Law. Confiscation Case No. 01 of 2017 was started for confiscation of the said vehicle.

3. The writ application has been filed for direction to the respondents to release the aforesaid vehicle. In the meantime, confiscation order has already been passed on 20.06.2017. The confiscation order has been challenged before this Court in this writ application by filing I.A. No. 1777 of 2017.

4. Submission of the learned counsel for the petitioner



is that the competency of the Executive Authority to confiscate the vehicle is sub judice before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) on the ground that the said power is exercisable by a Judicial Authority. In the circumstances, the operation of the impugned order and further proceeding before the courts below be stayed till adjudication of the aforesaid issue and the vehicle be released in favour of the petitioner by way of ad interim custody as no purpose is going to be served by its continued detention.

5. Learned counsel for the State-respondents has no objection in interim release of the said vehicle. However, his submission is that appropriate bond be executed by the petitioner to secure production of the vehicle and the order of interim release should be subject to the result of the pending L.P.A.

6. Considering the submission of the parties, let the impugned order as well as further proceeding before the court below remain stayed till disposal of the L.P.A. aforesaid and the same shall be subject to the results of the L.P.A.

7. Let the vehicle be released in favour of the petitioner on execution of surety bond of Rs.20,00,000/- (rupees twenty lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount with condition that the petitioner shall not dispose of



the same without permission of the court and shall produce as and when required by the court.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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