

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Writ Jurisdiction Case No.1036 of 2017**

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

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1. Md. Munna Mubarak Son of Late Badruddin, Resident of Simal Bari, P.S.-  
Baisi, District- Bihar. .... Petitioner/s

Versus

1. The State of Bihar.  
2. The Commissioner Excise Bihar, Patna.  
3. The Collector Purnea, District-Purnea, Bihar.  
4. The Inspector-Cum-Officer-In-Charge, Baisi Police Station Purnea, Bihar.  
.... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rana Pratap Singh, Advocate  
For the Respondent/s : Mr. Anil Kumar Sinha, GA-1

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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 Maruti Alto K-10 of this petitioner, bearing registration No.BR11U-7356, was seized in connection with Excise Case No.189 of 2016, arising out of Baisi P.S. Case No.112 of 2016, under Sections 273 of the Indian Penal Code and Section 47(a) of the Bihar Prohibition and Excise Act, 2016.

By impugned order dated 31.01.2017, passed in Excise Confiscation Case No.189 of 2016, the District Magistrate, Purnea, confiscated the referred vehicle.

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.4,00,000/- (Four Lacs) 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 the impugned order passed in Excise Case No.189 of 2016, arising out of Baisi P.S. Case No.112 of 2016, shall remain stayed 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./-

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