

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1088 of 2017

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

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1. Mohan Kumar Son of Hari Babu Prasad R/o Bari Bazar, (Madhubani), P.S.-
Town, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar Through The Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Prohibition and Excise Department , Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Superintendent of Police, Darbhanga.
6. The Officer-In-Charge, Sadar Police Station- Darbhanga, Bhalpatti, O.P.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surya Kant Mishra, Advocate
For the Respondent/s : Mr. Lalit Kishore, AG

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 04-09-2017

Heard learned counsel for the parties.

2. The Duster Car of this petitioner bearing registration
No.BR-01-CE 3495 was seized in connection with Darbhanga Sadar
(Bhalpatti O.P.) P.S. Case No.101 of 2017 for alleged violation of
the Excise Laws.

3. The petitioner moved the learned 3rd Additional
Sessions Judge-cum-Special Judge, Darbhanga, for release of the
vehicle and the prayer was refused on 06.06.2017 mainly for the
reason that Section 60 of the Bihar Prohibition and Excise Act,
2016, bars jurisdiction of the Court to entertain release of the seized



articles.

4. Learned counsel for the petitioner submits that no purpose is going to be served by continued detention of the seized vehicle. He further submits that the power of the Executive Authority to confiscate the vehicle is under challenge in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** before a larger Bench of this Court on the ground that such power is exercisable only by a judicial authority. Hence, till disposal of the L.P.A. aforesaid interim custody may be ordered in favour of the petitioner.

5. The learned counsel for the State-respondent has opposed the prayer. However, does not dispute the aforesaid factual position of the pending issue in the L.P.A. aforesaid.

6. Finding substance in the submission of the learned counsel for the petitioner especially the fact that no purpose would be served by continued detention of the said vehicle, let referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.8,00,000/- (Eight 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. This order



shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2017
Transmission Date	

