

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1707 of 2017

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

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1. Ranjit Kumar @ Ranjit Kumar Singh, Son of Dilip Prasad Singh @ Dilip Prasad, Resident of Village- Baksu Bigha, P.S.- Vishnupath, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary Excise Department, Patna.
2. The Collector/District Magistrate, Gaya.
3. The Superintendent of Police, Gaya.
4. The A.S.I. Awadhesh Prasad, Sherghati Police Station, Gaya.
5. The S.H.O. of Sherghati Police Station, Gaya.

.... Respondent/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-10-2017

Heard learned counsel for the parties.

2. The Maruti Alto 800 VXi of this petitioner bearing registration No.BR-02AG/5812 was seized in connection with Sherghati P.S. Case No.173 of 2017 for alleged violation of the Excise law.

3. The petitioner moved the learned Special Judge, Excise Act, Gaya, for release of the vehicle and the prayer was refused on 10.08.2017 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.3,00,000/- (Three Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount to the satisfaction of the Special Judge, Excise Act, Gaya, 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
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