

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1705 of 2017

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

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Dhanraj Kumar son of Ram Pratap Mahto

.... Petitioner/s

Versus

The State of Bihar Through The Principal Secretary, Registration, Excise And Prohibition Department, Government of Bihar, Patna & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pushpendra Kumar 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: 11-10-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 11.04.2017 passed in connection with Sonebarsa P.S. Case No.63 of 2017, by the learned Additional Chief Judicial Magistrate-IV, Sitamarhi, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., motorcycle bearing registration No.BR-30J/4611, has been refused.

3. Contention of the learned counsel for the petitioner is that the power of the executive authority to confiscate the vehicle is pending consideration in **LPA No.1647 of 2015 (Baleshwar Roy V. The State of Bihar & Ors.)** before a larger Bench of this Court. Hence, till adjudication of that dispute the interim release of the vehicle may be ordered in favour of the petitioner otherwise the vehicle would get rotten in the police



lockup.

6. Learned counsel for the respondent submits that Section 60 of the Bihar Prohibition and Excise Act, 2016, bars the jurisdiction of the Court to entertain application for release of the seized articles including the vehicles. Hence, the prayer before the Court-below is apparently not entertainable which had in fact not been entertained by the Court-below.

7. Commercial quantity of liquor, which is prohibited in the State of Bihar, was recovered from the vehicle of the petitioner.

8. Since no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the petitioner by way of ad interim custody on execution of **bank guaranty of Rs.50,000/- (Fifty Thousand)** to the satisfaction of the learned Additional Chief Judicial Magistrate-IV, Sitamarhi, 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.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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