

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1126 of 2017

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

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Sarita Krishna Moorti, wife of D. Prakash, Resident of House No. 201, Krishna Bihar Colony Beur, Patna, P.S. - Beur, District - Patna

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Excise, Government of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Superintendent of Police, Gaya.
4. The Officer In-Charge, Barachatty Police Station District - Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Shivendra Prasad, Advocate

For the Respondents : Mr. Vivek Prasad, GP-VII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-08-2017

Heard learned counsels for the parties.

2. The petitioner claims to be owner of Swift Dezire Car bearing registration no. BR-O1CQ-6905 which was seized in connection with Barachatty (Gaya) P.S. Case No. 323 of 2016 for alleged violation of the Excise Laws.

3. By the impugned order dated 26.05.2017, the learned Special Excise Judge, Gaya refused to release the vehicle in favour of the petitioner for the reason that Section 60 of the Bihar Prohibition and Excise Act, 2016 bars jurisdiction of the court in such matter.

4. The aforesaid order is under challenge in this criminal writ petition.

5. The State-respondents, in their counter affidavit, have challenged the prayer on the ground that the order of the court below is



consistent with the law applicable, hence, requires no interference.

6. Considering the fact that power, of the Executive Authority to confiscate and auction the seized articles which is exercisable by a judicial authority, is under challenge before a Larger Bench in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) as well as considering the fact that different Division Benches of this Court have ordered interim release of the seized vehicle in favour of the owner of the vehicle, let the vehicle in question be released in favour of the petitioner on execution of surety bond of Rs.6,00,000/- (rupees six lakhs) (not in the form of bank guarantee or cash) along with two sureties with condition that the petitioner shall not dispose of the same without permission of the Court and shall produce the vehicle as and when required by the court.

7. This order shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Kundan/-

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