

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1502 of 2017

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

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CHULHAI KUMAR @ CHULAI KUMAR, Son of Lakshman Sah, Resident of
Village - Dumma, Ward No. 2, (Hirauta Dumma), Police Station - Tariyani, District
- Sheohar

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Prohibition &
Registration Department, Government of Bihar, Patna
2. The Collector-cum-District Magistrate, Sheohar
3. The Superintendent of Excise, Sheohar
4. The Officer-in-Charge of Tariyani Police Station, District - Sheohar

.... Respondents

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Appearance :

For the Petitioner : Mr. Uday Kumar, Advocate
For the Respondents : Mr. Vivek Prasad, G.P. 7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 08-09-2017

Heard learned counsels for the parties.

This writ application has been filed for quashing the notice dated 25.05.2017, vide Annexure-3 issued in connection with Excise Confiscation Case No. 50 of 2017 arising out of Tariyani P.S. Case No. 39 of 2017 whereby the Collector, Sheohar has asked the petitioner to explain as to why his motorcycle bearing registration no. BR06BC/8243 be not confiscated.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise the power of confiscation, which is exercisable by a Judicial Authority, is under sub judice in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) and, hence, the operation of the impugned order be stayed and the



vehicle be released, by way of ad interim custody, in favour of the petitioner as no purpose is going to be served by its continued detention.

I find substance in the submission aforesaid, hence, proceeding of the confiscation case aforesaid including the operation of impugned order is directed to remain in abeyance till disposal of the above referred L.P.A. The proceeding shall be subject to the result of the L.P.A. aforesaid.

Since, no purpose is going to be served by keeping the motorcycle in seizure, let the same be released in favour of the petitioner, who claims to be owner thereof, by way of ad interim custody, on execution of surety bond of Rs.50,000/- (rupees fifty thousand) (not in the form of bank guarantee or cash) along with two sureties of the like amount 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.

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

(Birendra Kumar, J)

Kundan/-

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