

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1465 of 2017

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

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Ganit Kumar, Son of Rajnarayan Yadav, R/o Village - Kuranwada, P.S. - Punpun,
District- Patna.

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. The Director General of Police, Bihar, Patan.
3. The Principal Secretary, Department of Excise Bihar, Patna.
4. The District Magistrate, Gaya.
5. The Superintendent of Police, Gaya.
6. The Officer In Charge P.S. Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Digvijay Kumar Ojha, Advocate

For the Respondents : Mr. Vikash Kumar, SC 11

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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 direction to the respondents to release Scorpio vehicle of the petitioner bearing registration no. BR01P.G. 2391 which was seized in connection with Barachatti P.S. Case No. 319 of 2016, a case registered for violation of the Excise Laws.

Learned counsel for the petitioner submits that a confiscation proceeding has been initiated for confiscation of the aforesaid vehicle.

Submission of the learned counsel for the petitioner is that the competency of the Executive Authority to confiscate the



vehicle is sub judice before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) on the ground that the said power is exercisable by a Judicial Authority. In the circumstances, the operation of the impugned order be stayed till adjudication of the aforesaid issue and the vehicle be released in favour of the petitioner by way of ad interim custody as no purpose is going to be served by its continued detention.

Learned counsel for the State-respondents has no objection in interim release of the said vehicle. However, his submission is that appropriate bond be executed by the petitioner to secure production of the vehicle and the order of interim release should be subject to the result of the pending L.P.A.

Considering the submission of the parties, let further proceeding before the court below remain stayed till disposal of the L.P.A. aforesaid and the same shall be subject to the result of the L.P.A.

Let the vehicle be released in favour of the petitioner on execution of surety bond of Rs.10,00,000/- (rupees ten lakhs) (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 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.
Uploading Date	11.09.2017
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