

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1637 of 2017

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

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Phool Chaudhary, Son of Bigan Chaudhary, Resident of Village - Rajopatti, Mill
Tola, Ward No.18, P.S. - Sitamarhi, District - Sitamarhi

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Sitamarhi, District- Sitamarhi.
3. The Superintendent of Police, Sitamarhi.
4. The Station Head Officer, Dumra, District- Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Pushpendra Kumar Singh, Advocate

For the Respondents : Mr. Vivek Prasad, G.P. 7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-09-2017

Heard learned counsels for the parties.

2. This writ application is directed against the order dated 21.07.2017 passed by the District Magistrate-cum-Collector, Sitamarhi in connection with Confiscation Case No. 137 of 2016 vide Annexure-4 whereby the Collector has refused to release the seized motorcycle bearing registration no. BR-30M-0337. The said vehicle was seized in connection with Dumra P.S. Case No. 233 of 2016 corresponding to G.R. No. 2962 of 2016 registered under Sections 272 and 273 of the Indian Penal Code and Section 47 of the Bihar Prohibition and Excise (Amendment) Act, 2016. The Collector has confiscated the said vehicle.

3. 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.**). In the circumstances, till disposal of the L.P.A. aforesaid, further proceeding of confiscation case 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 continued detention.

4. I find substance in the submission aforesaid, 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.

5. 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.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	21.09.2017
Transmission Date	21.09.2017

