

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1051 of 2017

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

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Rohit Kumar @ Rihit Kumar, Son of Rajendra Sah, Resident of Mohalla Shankar Bag, Pankaj Market Road, Anchal Musahari (Nonia Tola Mai Sthan) P.S – Nagar, District – Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Govt. of Bihar, Patna
2. The District Magistrate, Muzaffarpur
3. The Superintendent of Police, Muzaffarpur
4. The Officer in Charge, Saraiya Police Station, District Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhurendra Kumar, Advocate

For the Respondents : Mr. Anil Kumar Sinha, G.A.1

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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 Auto Rickshaw Van bearing registration no. BR-06GC-2505 which was seized in connection with Saraiya P.S. Case No. 189 of 2017, G.R. No. 123 of 2017 for alleged violation of the Excise Laws.

3. By the impugned order dated 30.05.2017, the learned 3rd Additional District Judge-cum-Special Judge, Excise Act, Muzaffarpur 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.1,00,000/- (rupees one lac) (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.
Uploading Date	12.08.2017
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