

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1376 of 2017

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

=====

1. Ritu Kumari wife of Rambabu @ Abhay Kumar Resident of Village- Sihma Charkhutti, P.S. Matihani, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary Excise Department
2. The District Magistrate, Khagaria.
3. The Superintendent of Police, Khagaria.
4. The S.H.O. Mansi P.S., District- Khagaria.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Sumiran Rai, Advocate

For the Respondent/s : Mr. Vivek Prasad, GP-7

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 14-09-2017

Heard learned counsel for the petitioner and the State.

2. Indigo Car of this petitioner bearing Chassis No.MAT601484EPN31144, Engine No.1.4CRA1L08NVYW10355 was seized in connection with Mansi P.S. Case No.242 of 2016, a case registered under Section 30 of Bihar Prohibition and Excise Act, 2016.

3. Submission of the learned counsel for the petitioner is that the Collector, Khagaria, had refused the prayer of the petitioner to release the vehicle and confiscated the same on 16.05.2017 in Confiscation (Excise) Case No.4 of 2016-17. The prayer of the petitioner to release the aforesaid vehicle was also rejected by the



learned Additional Sessions Judge-III, Khagaria on 26.05.2017. In this writ petition the aforesaid orders of confiscation and rejection are under challenge.

4. Submission of the learned counsel for the petitioner is that the jurisdiction of the Executive Officer to confiscate the vehicle is subjudice before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** In the circumstances, till pendency of the L.P.A. aforesaid operation of the impugned order be stayed and the vehicle in question be released in favour of the petitioner as no purpose is going to be served by its continued detention in police lockup.

5. Learned counsel for the State-respondent opposed the prayer on the ground that the authorities are competent under the provisions of Bihar Prohibition and Excise Act, 2106, to confiscate. Hence, the petitioner cannot get interim relief of release of the vehicle.

6. Considering the fact that authority of the executive to confiscate the seized vehicle under the Excise Act and other provisions is under consideration before a larger Bench of this Court as referred above, the operation of the impugned order shall remain stated till further order and shall be subject to the result of L.P.A. aforesaid.



7. Since no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.6,00,000/- (Six Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount each to the satisfaction of the concerned authority with condition that the petitioner would not dispose of the said vehicle without permission of the authority concerned and shall produce as and when required by the Court.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2017
Transmission Date	19.09.2017

