

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1155 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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1. Mahesh Singh S/o Late Firangi Singh R/o Village - Khaira, P.S. - Ben, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Nalanda.
3. The Superintendent of Police, Nalanda.
4. The District Supply Officer, Nalanda.
5. The S.H.O. Nalanda, District - Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad, Advocate

For the Respondent/s : Mr. Lalit Kishore, PAAG-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 04-08-2017

Heard learned counsel for the petitioner and the State.

The Tata Ace vehicle of this petitioner, bearing registration No.BR-02W/3635, was seized in connection with Case No.244(3) Ex/16, under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The petitioner filed a petition before the learned District Magistrate-cum-Collector, Nalanda, Biharsharif, for release of the aforesaid vehicle and the prayer has been refused by the impugned order dated 29.03.2017 in connection with Confiscation (Excise) Case No.5 of 2017.

Submission of the petitioner is that the question of law as to whether the Collector has authority to confiscate and auction the



vehicle, which is a judicial function, is subjudice before a larger Bench of this Court in LPA No.1647 of 2015 and considering the pendency of the aforesaid LPA in other matters also different Division Benches of this Court have ordered for interim release of the vehicle in favour of the owner.

Learned counsel for the respondent has no objection in interim release of the vehicle in favour of the petitioner. However, his submission is that release would be subject to the result of the L.P.A. and the pending confiscation proceeding.

Considering the facts and circumstances above, let the aforesaid vehicle be released in favour of the petitioner after verification of the ownership of the vehicle of the petitioner by way of ad-interim custody on execution of surety bond of Rs.3,00,000/- (Three Lacs) along with two sureties of the like amount 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. This order shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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