

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 833 of 2017

Arising out of P.S. Case No. - null Year - null Thana - null District- EASTCHAMPARAN
(MOTIHARI)

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Satendra Singh @ Satyendra Singh, Son of Late Ramshish Singh, Resident of
Village Pakri, P.S. Dumaria Ghat, District East Champaran

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Excise and Prohibition, Govt. of Bihar, Patna
2. The District Magistrate, East Champaran, Motihari
3. The Senior Superintendent of Police, East Champaran, Motihari
4. The Officer-in-charge of Dumariyaghat Police Station, East Champaran

.... Respondents

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Appearance :

For the Petitioner : Mr. Shakti Suman Kumar, Advocate
Mr. Rajesh Ranjan, Advocate

For the Respondents : Mrs. Manisha Singh, A.C. to G.P. VII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-07-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of Bolero DI vehicle bearing registration no. BR-05P-6523 which was seized in connection with Dumariyaghat P.S. Case No. 70 of 2016 for alleged violation of the Excise Laws.

By the impugned order dated 04.04.2017, the learned Additional Chief Judicial Magistrate-1, Motihari 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. The said order was affirmed by the learned Sessions Judge, East Champaran, Motihari in Cr. Revision No. 125 of 2017 on 27.04.2017.

Both the orders are under challenge in this criminal writ



petition.

The State-respondents, in their counter affidavit, have challenged the prayer on the ground that both the orders of the courts below are consistent with the law applicable, hence, requires no interference.

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.7,00,000/- (rupees seven lakhs) (not in the form of bank guarantee) 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.

This order shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Kundan/-

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CAV DATE	
Uploading Date	
Transmission Date	

