

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1414 of 2017

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

=====

1. Mohan Kumar Son of Shri Sheo Kumar Singh, R/o Village- Adharpur, Post-Naya Nagar, P.S.- Teghara, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary Excise Deptt Bihar Govt.
2. The D.M. Begusarai.
3. The S.P. Begusarai.
4. The Dy. S.P. Sadar Begusarai.
5. The Police Inspector , Begusarai.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Binod Prasad Singh, Advocate

For the Respondent/s : Mr. Kumar Manish, SC-5

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-09-2017

Heard learned counsel for the petitioner and the State.

2. Bolero vehicle of the petitioner bearing registration No.BR09M/9467 was seized in connection with Barauni P.S. Case No.453 of 2016 for alleged violation of the Excise laws. Later on Confiscation Case No.43 of 2017 was initiated by the Collector, Begusarai. By order dated 26.07.2017 the said vehicle has already been confiscated.

3. The aforesaid order of confiscation is under challenge on the ground that power of the executive authority to confiscate the vehicles is under challenge 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.

4. 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.

5. 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 stayed till further order and shall be subject to the result of L.P.A. aforesaid.

6. 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.8,00,000/- (Eight 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.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.09.2017
Transmission Date	21.09.2017

