

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1356 of 2017

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

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1. Rakesh Kumar Son of Ram Kumar Ram Resident of Village - Jalpura Tapa, P.S.
- Chandi, District : Bhojpur (Ara).

.... Petitioner/s

Versus

1. The State of Bihar through Excise Department, Bihar, Patna.
2. District Magistrate, Bhojpur (Ara), Dist - Bhojpur (Ara).
3. Superintendent of Police, Bhojpur, District - Bhojpur (Ara).
4. Officer-In-Charge, Barhara (Khwaspur) Police Station, Dist - Bhojpur (Ara).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha, Advocate

For the Respondent/s : Mr. Harsh Kumar, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 01-09-2017

Heard learned counsel for the petitioner and the State.

2. TVS Apache motorcycle of this petitioner bearing registration No.BR-3F/2014 was seized in connection with Barahara (Khwaspur O.P.) P.S. Case No.182 of 2017, a case registered for the alleged violation of the Excise laws.

3. The prayer of the petitioner is to allow interim release of the motorcycle bearing registration No. BR-3F/2014 of the petitioner, which was seized in connection with the aforesaid case.

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. 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.50,000/- (Fifty Thousand), not in the form of cash/Bank Guarantee, 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.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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