

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No. 1434 of 2017**

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

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Dilip Biswakarma @ Dilip Lohar @ Munna Lohar, Son of Vinesh Biswakarma @  
Vinesh Lohar, R/o Village - Jirainpar, P.S. - Sare, District - Nalanda.

.... .... Petitioner

Versus

1. The State of Bihar
2. The D.G.P. Bihar, Patna
3. The Superintendent of Police, Nalanda
4. The S.H.O., Sare Police Station
5. I.O. of Sare P.S. Case No. 21/17
6. Amina Kumari, W/o Uday Bhan Sharma, R/o village - Werauti, P.S. Deep  
Nagar, District - Nalanda, at present address at Primary Health Center Onda.

.... .... Respondents

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**Appearance :**

For the Petitioner : Mrs. Kumari Sujata Sinha, Advocate

For the Respondents : Mr. Manish Kumar, G.P.-4

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

**ORAL JUDGMENT**

**Date: 13-12-2017**

Heard learned counsel for the parties.

2. This writ application has been filed for release of the motorcycle bearing registration no. BR 21L 7444 which was seized in connection with Sare P.S. Case No. 21 of 2017. Further prayer is for quashing the order dated 31.05.2017 passed in the aforesaid case by the learned Special Judge, Excise, Nalanda whereby prayer for interim release was refused on the ground that Section 60 of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act') bars jurisdiction of the Court in such matter.

3. Since constitutional validity of Sections 56, 57, 58 and 60 of the Act is under challenge and the matter is pending before



a Larger Bench in Cr.W.J.C. No. 2446 of 2017 (**Rahul Kumar @ Rahul Vs. The State of Bihar & Ors.**), let the aforesaid vehicle in question be released in favour of the petitioner as ad interim custody on execution of surety bond of Rs.50,000/- (rupees fifty thousand) (not in the form of bank guarantee or cash) along with two sureties of the like amount to the satisfaction of the learned court below/authority concerned where the case is pending, with condition that the petitioner would not dispose of the said vehicle or put the same under encumbrance without permission of the authority concerned and shall produce as and when required by the Court.

4. The release shall be subject to the final result of the pending Cr.W.J.C. aforesaid.

**(Birendra Kumar, J)**

Kundan/-

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| AFR/NAFR          | N.A.       |
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