

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1765 of 2017

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

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Manish Kumar Kashyap, S/o Vijay Kumar Kashyap, Resident of Main Road,
Japla, Palamu, P.S. - Daltonganj, District - Palamu (Jharkhand)

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration,
Excise and Prohibition, Government of Bihar.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector-cum-The District Magistrate, Aurangabad.

.... Respondents

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Appearance :

For the Petitioner : Mr. Bhaskar Shankar, Advocate

For the Respondents : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the parties.

2. Bolero vehicle of the petitioner bearing registration no. JH-3E-6972 was seized in connection with Excise Case No. 165 of 2016 as 11 litres of liquor was, allegedly, recovered therefrom. Thereafter, Excise Case No. 222 of 2016 has been initiated by the Collector, Aurangabad and by the impugned order dated 04.08.2017, the vehicle has been ordered to be confiscated.

3. Submission of the learned counsel for the petitioner is that the confiscation of the vehicle would amount to pre-trial punishment which is bad in law. Moreover, the power is exercisable by a judicial authority and the aforesaid issue is pending under consideration before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). Hence, till adjudication of the aforesaid issue, let the vehicle be released as ad interim custody in favour of the petitioner as no



purpose is going to be served by its continued detention.

4. After hearing the parties, finding substance in the submission aforesaid, it is ordered that operation of the impugned order shall remain stayed and shall be subject to the final result of L.P.A. aforesaid and let the aforesaid vehicle in question be released in favour of the petitioner on interim custody on execution of bank guarantee of Rs.5,00,000/- (rupees five lakhs) or document of immovable property of equal value standing in the name of the petitioner 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.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	08.12.2017
Transmission Date	08.12.2017

