

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1302 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- BHABHUA (KAIMUR)

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Shivam Pratap Singh, Son of Sri Satyendra Singh, Resident of Village : Baraura,
P.S. : Ramgarh, District : Kaimur at Bhabua.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate, Kaimur at Bhabua.
3. The Superintendent of Police, Kaimur at Bhabua.
4. The Excise Inspector, Kaimur at Bhabua

.... Respondents

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Appearance :

For the Petitioner : Mr.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-09-2017

Heard learned counsels for the parties.

This writ application is directed against the order dated 08.06.2017 passed by the Collector-cum-District Magistrate, Kaimur at Bhabhua in connection with Vehicle Confiscation Case No. 155 of 2016-17 whereby the Collector has refused to release the seized motorcycle bearing registration no. BR-45E/8061. The said vehicle was seized in connection with Excise Case No. 88 of 2017 registered under Section 30(a) of the Bihar Excise and Prohibition (Amendment) Act, 2016. The Collector has confiscated the said vehicle and directed the Excise Officer to auction the said vehicle and to deposit the auctioned amount in the treasury within a period of 30 days.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise the power of confiscation, which is exercisable by a Judicial Authority, is under sub-



judice in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). Hence, the operation of the impugned order be stayed and the vehicle be released, by way of ad interim custody, in favour of the petitioner as no purpose is going to be served by continued detention.

I find substance in the submission aforesaid, hence, proceeding of the confiscation case aforesaid including the operation of impugned order is directed to remain in abeyance till disposal of the above referred L.P.A. The proceeding shall be subject to the result of the L.P.A. aforesaid.

Since, no purpose is going to be served by keeping the motorcycle in seizure, let the same be released in favour of the petitioner, who claims to be owner, thereof, by way of ad interim custody on execution of surety bond of Rs.50,000/- (rupees five thousand) (not in the form of bank guarantee or cash) along with two sureties of the like amount 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.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
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