

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1917 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District-
EASTCHAMPARAN(MOTIHARI)

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Rakesh Sah @ Ramesh Sah, Son of Kapildeo Sah, Resident of Village-Asharam,
Madhubani, P.S.-Chiraiya, District-East Champaran.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, East Champaran at Motihari.
3. The Excise Commissioner, Excise Department, Muzaffarpur.
4. The Superintendent of Police, East Champaran at Motihari.
5. The Dy.S.P. Sikrahana at Dhaka, East Champaran.
6. The S.H.O., P.S.-Chiraiya, East Champaran.

... Respondents

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Appearance :

For the Petitioner/s : Mr. Shakil Ahmad Khan, Advocate
For the Respondent/s : Mr. Vikas Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 16-10-2017

Heard learned counsel for the parties.

2. The Bolero of this petitioner bearing registration
No.BR-05P/5038 was seized in connection with Chiraiya P.S. Case
No.75 of 2017 for alleged violation of the Bihar Excise law.

3. Learned counsel for the petitioner submits that no
purpose is going to be served by continued detention of the seized
vehicle. He further submits that the power of the Executive
Authority to confiscate the vehicle is under challenge in **LPA
No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.**
before a larger Bench of this Court on the ground that such power is
exercisable only by a judicial authority. Hence, till disposal of the



L.P.A. aforesaid the interim custody may be ordered in favour of the petitioner.

4. The learned counsel for the State-respondent has opposed the prayer. However, does not dispute the aforesaid factual position of the pending issue in the L.P.A. aforesaid.

5. Finding substance in the submission of the learned counsel for the petitioner especially the fact that no purpose would be served by continued detention of the said vehicle, let referred vehicle 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. This order shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.10.2017
Transmission Date	18.10.2017

