

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1803 of 2017

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

- =====
1. Niraj Kumar S/o Bhagya Narayan Sah R/o Village - Tetariya, P.S. - Rajepur District - East Champaran (Motihari).

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise Department, Patna.
2. The District Magistrate, Sheohar.
3. The Superintendent of Police, Sheohar.
4. The Excise Superintendent, Sheohar.
5. The S.H.O., Sheohar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Saroj Kumar Sharma, Advocate
Mrs. Kiran Kumari Sharma, Advocate
For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 16-10-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 25.07.2017 passed in connection with Confiscation Case No.25 of 2017, arising out of Sheohar P.S. Case No.77 of 2017, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Auto Rickshaw bearing registration No.BR-06-PC-8171, has been refused and the referred vehicle has been confiscated.

3. 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.

4. Considering the fact that authority of the executive to confiscate the seized vehicle under the Excise Act and other provisions is under consideration before a larger Bench of this Court as referred above, the operation of the impugned order shall remain stayed till further order and shall be subject to the result of L.P.A. aforesaid.

6. Since commercial quantity of liquor was recovered from the vehicle of the petitioner and 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 **bank guarantee of Rs.1,00,000/- (One Lac)** 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 without permission of the authority concerned and shall produce as and when required by the Court. The release shall be subject to the result of the L.P.A. aforesaid.



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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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