

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1267 of 2017

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1. Vikash Kumar @ Vikash Sah, Son of Sri Shivji Shah, Resident of
Maripur Chowk, P.S.- Kaji Mohammadpur, District- Muzaffarpur
..... Petitioner

Versus

1. The State of Bihar Through The Principal Secretary, Department of
Excise, Government of Bihar, Patna.
2. District Magistrate, Muzaffarpur.
3. Superintendent of Excise, Muzaffarpur.
4. Subdivisional Officer, East, Muzaffarpur.
5. Anchal Adhikari, Musahari, District- Muzaffarpur.
6. Excise Inspector, Muzaffarpur
7. Sub Inspector of Excise, Sadar Anchal, Muzaffarpur Respondents

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Appearance :

For the Petitioner : M/S A.K. Thakur, Ravi Ranjan & Shashank
Shekhar Advs.

For the Respondents : Mr. Vivek Prasad (Gp-7)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 21-08-2017 Heard the parties.

The petitioner has prayed for quashing the order, dated 23.12.2016, passed by the District Magistrate, Muzaffarpur, in connection with Confiscation Case No. 15 of 2016-2017 whereby he has refused to release the Tata Safari, bearing registration no. BR-32P-0889, and Tata Truck, bearing registration no. BR-06GB-6917 of the petitioner which were seized in connection with the aforesaid case for alleged violation of Excise Laws.

Submission of the learned counsel for the petitioner is that the power of executive authority to confiscate the seized vehicle, which is exercisable by a judicial authority is subjudice before a larger Bench of this Court in **L.P.A. No. 1647 of 2015 (Baleshwar Roy Vrs. The State of Bihar & Ors.)**. The refusal to release the vehicle is mainly on the ground that the confiscation proceeding is pending. He, further, submits that no purpose is



going to be served by continued detention of the vehicle in custody.

The learned counsel for the respondents seeks four weeks' time for filing counter affidavit.

Considering the aforesaid pendency of issue, let the aforesaid Tata Safari, bearing registration no. BR-32P-0889 on execution of surety bond of Rs. 12,00,000/- (rupees twelve lakhs) and Tata Truck, bearing registration no. BR-06GB-6917 on execution of surety bond of Rs. 15,00,000/- (rupees fifteen lakhs) be released in favour of the petitioner by way of interim custody (not in the form of bank guarantee or cash) along with two sureties of the like amount each.

The petitioner shall file undertaking that he will not use the vehicles for any illegal purpose and will not dispose of the aforesaid vehicles without the permission of the Court.

Further proceeding in connection with the aforesaid case shall remained stayed till further orders.

The interim release shall be subject to the result of pending Letters Patent Appeal.

With the aforesaid observations, this application stands **disposed off**.

(Birendra Kumar, J)

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