

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1359 of 2017

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

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Ashit Kumar Sharma, S/o Late Anup Lal Sharma, R/o Village - Alipur, Sital
Purwankar, P.S. - Barsoi, District - Katihar

.... Petitioner

Versus

1. The State of Bihar, through the Secretary, Department of Excise, Government of Bihar, Patna
2. The District Magistrate, Katihar
3. The Superintendent of Police, Katihar
4. The Officer-in-Charge, Barsoi (Sudhani) Police Station, District - Katihar

.... Respondents

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Appearance :

For the Petitioner : Mr. Shivendra Prasad, Advocate

For the Respondents : Mr. Kumar Manish, SC 5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-09-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of Splender Pro bike bearing registration no. BR-39-M-3194 which was seized in connection with Barsoi (Sudhani) P.S. Case No. 72 of 2017 registered for alleged violation of Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2016.

The petitioner filed a petition on 08.06.2017 before the learned Additional District Judge-II, Katihar for release of the Splender Pro bike on the ground that petitioner is the owner of the Splender Pro bike and no purpose would be served in continuance of the seizure of the Splender Pro bike, rather it would cause external and internal damage to the vehicle.



Considering the fact that no purpose is going to be served by continued detention of the vehicle as the power, of the Executive Authority to confiscate and auction the seized articles which is exercisable by a Judicial Authority, is under challenge before a Larger Bench in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) as well as considering the fact that different Division Benches of this Court have ordered interim release of the seized vehicle in favour of the owner of the vehicle, let the vehicle in question be released in favour of the petitioner on execution of surety bond of Rs.50,000/- (rupees fifty thousand) (not in the form of bank guarantee or cash) along with two sureties 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.

This order shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	09.09.2017
Transmission Date	09.09.2017

