

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1484 of 2017

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

Kanhaiya Kumar, Son of Vir Bahadur Prasad, Resident of Village - Ahirauliya
Bhopatpur, P.S. Kotwa, District East Champaran.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The District Magistrate cum Collector, East Champaran at Motihari.
3. The Superintendent of Police, East Champaran, Motihari.
4. The S.H.O. Kundwa Chainpur, Police Station, District - East Champaran.
5. The Union of India, through Assistant Commandant, C Coy-20, Bn, S.S.B., Ministry of Home Affairs (Govt. of India)

.... Respondents

Appearance :

For the Petitioner : Mr. Ajay Kumar Singh, Advocate

For the Respondents : Mr. Kumar Manish, SC 5

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 08-09-2017

Heard learned counsels for the parties.

This writ application is directed against the order dated 25.05.2017 passed by the District Magistrate-cum-Collector, East Champaran, Motihari in connection with Excise Confiscation Case No. 71 of 2016 vide Annexure-3 whereby the Collector has refused to release the seized motorcycle (Hero Glamour) vehicle bearing registration no. BR06AW-8150. The said vehicle was seized in connection with Kundwa Chainpur Town P.S. Case No. 131 of 2016 registered under Sections 272, 273 of the Indian Penal Code and Sections 30(a), 37(a) of the Bihar Prohibition and Excise Act, 2016. The Collector has confiscated the said vehicle.

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.**) and, 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 its 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 fifty 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.
CAV DATE	N.A.
Uploading Date	11.09.2017
Transmission Date	11.09.2017

