

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1550 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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1. Md. Niyaz Ahmad @ Niyaz Ahamd S/o Md. Anish resident of mohalla- Gagan Diwan, P.S.- Laheri, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Excise Department, Government of Bihar, Old Secretariat, Patna
2. The District Magistrate, Nalanda
3. The Superintendent of Police, Nalanda.
4. The District Supply Officer, Nalanda.
5. The S.H.O. Giriyak, Katarisarai, Nalanda, District- Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishor Prasad, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, GA-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-09-2017

Petitioner is permitted to correct the registration number of the vehicle.

2. The Ambassador Car of this petitioner bearing registration No.BR-1W/4289 was seized in connection with Giriyak (Katarisarai) P.S. Case No.78 of 2017, a case under Sections 30/37/38/41 of the Bihar Prohibition and Excise Act, 2016.

3. Heard learned counsel for the petitioner and the State.

4. The petitioner approached before the learned Collector, Nalanda, Biharsharif, for ad interim release of the



referred vehicle. By order dated 02.07.2017 passed in Excise Case No.34 of 2017 the prayer was refused and the said vehicle was confiscated.

5. 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.

6. Learned counsel for the State-respondent opposed the prayer on the ground that the authorities are competent under the provisions of Bihar Prohibition and Excise Act, 2106, to confiscate. Hence, the petitioner cannot get interim relief of release of the vehicle.

7. 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.



8. Since no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the petitioner or his wife as the said motorcycle is in the name of the wife of the petitioner by way of ad interim custody on execution of surety bond of Rs.4,00,000/- (Four Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount to the satisfaction of the Collector, Nalanda, with condition that the petitioner or his wife would not dispose of the said vehicle without permission of the authority concerned and shall produce as and when required by the Court.

9. With the aforesaid observation, this writ application stands disposed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.09.2017
Transmission Date	21.09.2017

