

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1615 of 2017

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

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1. Daijee Singh Wife of Raj Kumar resident of Military Colony, Pannagarh, P.S.Pannagar, District- Bardwan (W.B), at Present residing of Village Gulani Kushaba , P.S. Shambhuganj, District- Banka.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Excise Department, Govt. of Bihar, Patna .
2. The District Magistrate Cum- Collector, Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-09-2017

Heard learned counsels for the parties.

This writ application is directed against the order dated 10.06.2017 passed by the District Magistrate-cum-Collector, Banka in connection with Confiscation Case No. 151 of 2016-17 arising out of C-7-376 of 2016 vide Annexure-4 whereby the Collector has refused to release the seized Bolero vehicle bearing registration no. WB-38P/3937.

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.**). In the circumstances, 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, 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 Bolero 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.8,00,000/- (rupees eight lakhs) (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)

Nitesh/-

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CAV DATE	
Uploading Date	
Transmission Date	

