

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1084 of 2017

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

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1. Rakesh Roushan Son of Mewa Prasad, Resident of C/o Ashutosh Kumar, New Jaganpura, Kankarbagh, P.S. Kankarbagh, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Excise Department , New Secretariat, Patna.
2. The District Magistrate, Nalanda.
3. The Superintendent of Police, Nalanda.
4. The Officer-in-Charge Harnaut Police Station- , District-Nalanda.
5. The Investigation officer of Harnaut, P.S. Case No. 35/17, P.S. - Harnaut, District Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kamal, Advocate

For the Respondent/s : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 31-07-2017

Heard learned counsel for the petitioner and the State.

The Maruti Swift Dzire of this petitioner bearing registration No.BR01AL 3008 was seized in connection with Harnaut P.S. Case No.35 of 2017, a case under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

The petitioner approached before the learned Additional Sessions Judge-VI-cum-Special Judge, Excise, Nalanda, Biharsharif, for ad interim release of the said motorcycle and the prayer was refused for the reason that Section 60 of the Act bars jurisdiction of the Court to entertain application for release of the vehicle.

The power of the Executive Authority to confiscate the



vehicle is under challenge in **L.P.A. No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** before a larger Bench of this Court on the ground that such power is exercisable only by a judicial authority. Hence, prayer is for ad interim release of the vehicles.

The learned counsel for the State-respondent has opposed the prayer. However, does not dispute the aforesaid factual position of the pending issue in the L.P.A. aforesaid.

Finding substance in the submission of the learned counsel for the petitioner especially the fact that no purpose would be served by continued detention of the said vehicle, let referred vehilce be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.8,00,000/- (Eight Lacs) not in the form of cash/Bank Guarantee along with two sureties of the like amount each with condition that the petitioner would not dispose of the said vehicle without permission of the authority concerned and shall produce as and when required by the Court. This order shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

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