

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1450 of 2017

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

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1. Ram Ekbal Sah Son of Late Vishwanath Sah, R/o Village- Bediban Madhuban,
P.S.- Pipra, District- East Champaran, Motihari.

.... Petitioner/s

Versus

1. The State of Bihar Through Principle Home Secretary, Govt. of Bihar, Patna.
2. The Director General of Police , Bihar, Patna.
3. The Collector Cum District Magistrate, East Champaran, Motihari.
4. The Superintendent of Police, East Champaran, Motihari.
5. The Excise Superintendent, East Champaran, Motihari.
6. The Officer Incharge, Pipra Kothi, District- East Champaran, Motihari,

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 04-09-2017

Heard learned counsel for the parties.

2. The petitioner is owner of motorcycle bearing registration No. BR-06AQ/6645. The said vehicle was seized in connection with Pipra Kothi P.S. Case No.206 of 2016, a case registered for alleged violation of the Excise laws.

3. The present writ application has been filed for quashing the order dated 03.04.2017 passed by learned Sessions Judge, East Champaran, Motihari, in Criminal Revision No.99 of 2017 by which learned Sessions Judge dismissed the revision preferred by the petitioner against the order dated 08.03.2017 passed



by the learned Chief Judicial Magistrate, Motihari, whereby and whereunder the learned court-below has refused the release of the seized motorcycle.

5. Contention of the learned counsel for the petitioner is that the power of the executive authority to confiscate the vehicle is pending consideration in **LPA No.1647 of 2015 (Baleshwar Roy V. The State of Bihar & Ors.)** before a larger Bench of this Court. Hence, till adjudication of that dispute the interim release of the vehicle may be ordered in favour of the petitioner otherwise the vehicle would get rotten in the police lockup.

6. Learned counsel for the respondent submits that Section 60 of the Bihar Prohibition and Excise Act, 2016, bars the jurisdiction of the Court to entertain application for release of the seized articles including the vehicles.

7. In the circumstances, for substantial justice, let the vehicle, in question, be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.50,000/- (Fifty Thousand), not in the form of cash/Bank Guarantee, along with two sureties of the like amount each to the satisfaction of the concerned authority 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. The release shall be



subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2017
Transmission Date	

