

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1874 of 2017

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

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Rakesh Kumar, Son of Late Krishna Kumar Yadav, resident of Village - Ward No. 24, Baluwahi, Police Station - Khagaria District- Khagaria.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Collector, Khagaria.
3. The Excise Superintendent, Khagaria.
4. The Superintendent of Police, Khagaria.
5. Santosh Kumar Sharma, Police Sub Inspector of Khagaria (Town), Police Station and District - Khagaria.
6. The I.O cum Assistant Sub Inspector, Khagaria (Town), Police Station and District Khagaria.

.... Respondents

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Appearance :

For the Petitioner : Mr.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 17-10-2017

Heard learned counsels for the parties.

This writ application has been filed for quashing the notice dated 07.09.2017, vide Annexure-3 issued in connection with Confiscation Case No. 55 of 2017-18 arising out of Khagaria P.S. Case No. 383 of 2017 whereby the Collector has asked the petitioner to explain as to why his car bearing registration no. BR 10-W-4570 be not confiscated.

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 car 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 bank guarantee of Rs.4,00,000/- (rupees four lakhs) 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	18.10.2017
Transmission Date	18.10.2017

