

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 2150 of 2017

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

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Jitendra Paswan, Son of Vijay Paswan, resident of village – Ajaniya, P.S. – Simra,
District Aurangabad

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Excise, Government of Bihar, Patna
2. The District Magistrate, Aurangabad
3. The Superintendent of Police, Aurangabad
4. The Officer in Charge, Risiup Police Station, District Aurangabad

.... Respondents

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Appearance :

For the Petitioner : Mrs. Leelawati Kumari, Advocate

For the Respondents : Mr. Vikash Kumar, SC11

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 28-11-2017

Heard learned counsel for the parties.

2. Motorcycle of the petitioner bearing registration no. JH09M-6984 was seized by the police in connection with Risiup P.S. Case No. 19 of 2017 for the offences under Sections 30(a)/38 of the Bihar Prohibition and Excise Act, 2016.

3. Allegation is that 82 litres illicit country made liquor was recovered from the vehicle of the petitioner.

4. Learned counsel for the petitioner submits that the petitioner filed a petition before the District Magistrate, Aurangabad vide Excise Case No. 119 of 2017 but the motorcycle of the petitioner has not been released and order has been passed for confiscation on 22.06.2017.

5. Submission of the learned counsel for the petitioner is that no



purpose would be served by continued detention of the vehicle till completion of the criminal trial because pre-trial confiscation of the seized article is challenged in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) before a Larger Bench of this Court.

6. After hearing the parties, finding substance in the submission aforesaid, let the aforesaid vehicle be released in favour of the petitioner on execution of bank guarantee of Rs.50,000/- (rupees fifty thousand) or document of immovable property standing in the name of the petitioner to the satisfaction of the learned court below/authority concerned where the case is pending, with condition that the petitioner would not dispose of the said vehicle or put the same under encumbrance without permission of the authority concerned and shall produce as and when required by the Court.

7. The operation of confiscation proceeding, if any, pending or order of confiscation, if any, found in respect of the said vehicle shall remain in abeyance till disposal of the L.P.A. aforesaid and the same shall be subject to the final result of the L.P.A.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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