

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2107 of 2017

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

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Yogendra Mehta, Son of Kamlesh Mehta, Resident of Village - Dena, P.S. - Hariharganj, District - Palamu (Jharkhand)

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Senior Superintendent of Police, Gaya.
4. The Officer Incharge, Police Station - Dumariya, District - Gaya

.... Respondents

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Appearance :

For the Petitioner : Mr. Arvind Kumar Singh, Advocate

For the Respondents : Mr. Kumar Manish, SCV

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of Swaraj-834XM Tractor bearing registration no. JH-03J-9294 along with Trailor bearing registration no. JH-03J-2885 which were seized in connection with Dumariya P.S. Case No. 33 of 2017 for alleged violation of the Bihar Excise Law.

By the impugned order dated 30.08.2017, the learned Special Judge (Excise), Gaya refused to release the vehicle in favour of the petitioner on the ground that a letter has been sent to the District Magistrate, Gaya to start a confiscation proceeding in this case.

The aforesaid order is under challenge in this criminal writ petition.

Submission of the learned counsel for the petitioner is that no purpose would be served by continued detention of the Tractor and Trailor



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.

After hearing the parties, finding substance in the submission aforesaid, let the tractor along with trailer be released in favour of the petitioner on execution of surety bond of Rs.3,00,000/- (rupees three lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount each 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.

The release shall be subject to the result of the L.P.A. aforesaid.

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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