

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2467 of 2017

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

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1. Shafat Hussain alias Safatullah, son of Haji Maqubool Hussain, Resident of Village Dangraha, P.S. Baisi, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration, Excise And Prohibition, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Purnea.
3. Superintendent of Police, Purnea.
4. The Excise Commissioner, Bihar, Purnea.
5. Officer In Charge, Baisi, Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, GA-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 17.10.2017 passed in connection with Excise Case No.230 of 2017 by the Collector, Purnea, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle bearing registration No.BR11A-6016 has been refused and the referred vehicle has been confiscated.

3. Submission of the learned counsel of the petitioner is that the continued seizure of the vehicle would serve no purpose and



its confiscation and auction would amount to pre-trial punishment, which is not permissible in law and the same issue is pending consideration before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** Hence, till adjudication of the aforesaid issue the operation of the impugned order be stayed and interim release of the vehicle be ordered as no purpose is going to be served by its continued detention in police lockup.

4. After hearing the parties and finding substance in the submission aforesaid regarding pendency of the issue before a larger Bench as to whether the executive authority can confiscate the seized vehicle before proof of guilt, the operation of the impugned order is stayed till adjudication of the aforesaid issue in the L.P.A. aforesaid and shall be subject to the result of the L.P.A. aforesaid.

5. Since no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.3,00,000/- (Three lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount 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 without permission of the authority



concerned and shall produce as and when required by the Court.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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