

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Writ Jurisdiction Case No.1852 of 2017**

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

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1. Niraj Kumar Singh, Son of Late Satyendra Bahadur Singh, Resident of Chandan Nagar, P.S.- Sadar, District- Purnea.

.... .... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Department of Registration, Excise And Prohibition, Government of Bihar.
2. The Excise Commissioner, Bihar, Patna.
3. The Collector, Purnea.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Bijendra Kumar Singh, Advocate

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

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

**ORAL JUDGMENT**

**Date: 15-11-2017**

Heard learned counsel for the petitioner and the State.

2. Commercial quantity of foreign liquor was recovered from the Tata Sumo Gold of the petitioner bearing registration No.BR-11V 7897 and Baisi P.S. Case No.100 of 2016 was registered under Sections 273 of the Indian Penal Code and Section 47(a) of the Bihar Prohibition and Excise Act, 2016. Subsequently, Excise Case No.190 of 2016 was initiated for confiscation of the aforesaid vehicle and by order dated 23.12.2016, contained in Annexure-4, the said vehicle was confiscated.

3. The present writ application has been filed challenging the confiscation order on the ground that pre-trial confiscation is bad-in-law and the aforesaid issue is under 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 commercial quantity of liquor was recovered from the vehicle of the petitioner, let the same be released in favour of the petitioner by way of ad interim custody on execution of **bank guarantee of Rs.6,00,000/- (Six Lacs)** 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./-

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