

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2071 of 2017

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

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Amrendra Kumar, S/o Late Ramadhar Sinha, R/o Mohalla - Samir Takya, P.S. -
Civil Line, Dist. - Gaya

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. District Magistrate, Gaya.
3. Officer In Charge Barachatti, P.S. - Dist.- Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ashok Kumar, Advocate

For the Respondents : Mr. Vevek Prasad, G.P. VII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsel for the parties.

The petitioner claims to be owner of Mahindra TUV bearing registration no. BR-02-AF-1943 along with Samsung A7 Mobile bearing SIM No. 7295005652 and bearing JIO Mobile SIM No. 9431415400 and 7766056930 which were seized in connection with Barachatti P.S. Case No. 324 of 2016 for alleged violation of the Bihar Excise Law.

By the impugned order dated 07.09.2017, the learned Special Judge Excise, Gaya refused to release the vehicle in favour of the petitioner.

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

The State-respondents have challenged the prayer on the ground that the order of the court below is consistent with the law



applicable, hence, requires no interference.

Considering the fact that power of the Executive Authority to confiscate and auction the seized articles, which is exercisable by a judicial authority, is under challenge before a Larger Bench in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) as well as considering the fact that different Division Benches of this Court have ordered interim release of the seized vehicle in favour of the owner of the vehicle, let the vehicle in question along with mobile with SIMS be released in favour of the petitioner on execution of surety bond of Rs.6,00,000/- (rupees six lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount each, 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.

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

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	17.11.2017
Transmission Date	17.11.2017

