

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

**Criminal Writ Jurisdiction Case No. 2263 of 2017**

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

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MD. MUSSA KHAN, Son of Md. Ibrahim Khan, Resident of Village - Atarsuwa,  
Police Station - Sahayak Sarai O.P., District - Siwan

.... .... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Bihar, Patna.
2. The Director General of Police, Bihar, Patna
3. The District Magistrate, Siwan
4. The Superintendent of Police, Siwan
5. The Police Inspector-cum-Officer in Charge (S.H.O.), P.S. - Guthani, District - Siwan

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Raghav Prasad, Advocate

For the Respondents : Mr. Vikash Kumar, S.C.-11

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

ORAL JUDGMENT

**Date: 06-12-2017**

Heard learned counsel for the parties.

2. The Scorpio vehicle of the petitioner bearing registration no. BR01PE-4399 was seized on 06.08.2017 in connection with Guthani P.S. Case No. 86 of 2016 for alleged violation of the Excise Law punishable under Section 47 of the Bihar Excise (Amendment) Act, 2016.

3. Learned counsel for the petitioner submits that petitioner filed a petition before the learned court below but the same is still pending.

4. 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.

5. 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.5,00,000/- (rupees five lakhs) or document of immovable property of equal value 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.

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

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

**(Birendra Kumar, J)**

Kundan/-

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| AFR/NAFR          | N.A.       |
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