

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2173 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- VAISHALI(HAJIPUR)

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Thakur Mithilesh Singh @ Mithilesh Singh, S/o Late Musadi Singh, R/o Mohalla -
P.C. Colony, P.S. - Kankarbagh, District - Patna, Native Village - Bariyarpur, P.S. -
Rajapaker, District - Vaishali.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Home Department, Bihar, Patna.
2. The District Magistrate-cum-District Officer, Vaishali.
3. The Superintendent of Police, District - Vaishali.
4. The S.H.O., Industrial Area (Audyogic Chhetra), P.S. - Vaishali.
5. The Sub- Inspector of Police, Industrial Area (Audyogic Chhetra), P.S. - Vaishali.
6. The Commissioner, Excise Department, Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Rana Baljit Singh, Advocate

For the Respondents : Mr. Kumar Manish, S.C. V

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsels for the parties.

This writ application has been filed for direction to
the respondents to release ZEST XM BSIV of Tata Motors of the
petitioner bearing registration no. BR01CC-8700, Chesis No. MAT-
623226ELJ9386 which was seized in connection with Industrial Area
P.S. Case No. 115 of 2017, a case registered for violation of the
Excise Laws.

Learned counsel for the petitioner submits that a
confiscation proceeding has been initiated for confiscation of the
aforesaid vehicle.



Submission of the learned counsel for the petitioner is that the competency of the Executive Authority to confiscate the vehicle is sub judice before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) on the ground that the said power is exercisable by a Judicial Authority. In the circumstances, the operation of the impugned order be stayed till adjudication of the aforesaid issue and the vehicle be released in favour of the petitioner by way of ad interim custody as no purpose is going to be served by its continued detention.

Learned counsel for the State-respondents has no objection in interim release of the said vehicle. However, his submission is that appropriate bond be executed by the petitioner to secure production of the vehicle and the order of interim release should be subject to the result of the pending L.P.A.

Considering the submission of the parties, let further proceeding before the court below remain stayed till disposal of the L.P.A. aforesaid and the same shall be subject to the final result of the L.P.A.

Let the aforesaid vehicle be released in favour of the petitioner on execution of surety bond of Rs.4,00,000/- (rupees four 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 as and when required by the court.

With the aforesaid observation, this 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

