

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 2708 of 2017

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

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Md. Mujahir, Son of Md. Musharaf, Resident of Village - Kutupur, P.O. -
Mathurapur, P.S. - Mufassil, District - Khagaria

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Secretary, Department of Excise, Government of Bihar, Patna.
3. The District Magistrate cum Collector, Khagaria.
4. The S.P. Khagaria.
5. The Officer Incharge Muffasil (Khagaria) Police Station, Khagaria.

.... Respondents

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Appearance :

For the Petitioner : Mr. Anil Kumar Choudhary, Advocate

For the Respondents : Mr. Kumar Manish, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-12-2017

Heard learned counsel for the parties.

2. This writ application has been filed for release of the vehicle bearing registration no. BR34H/5189 which was seized in connection with Khagaria Muffasil P.S. Case No. 339 of 2017 as the same was carrying 100 pouch each containing 200 ml. of country made liquor.

3. Learned counsel for the petitioner submits that the petitioner moved before the learned 3rd Additional Sessions Judge, Khagaria but the same was rejected on 11.10.2017 in the light of Section 60 of the Bihar Prohibition and Excise Act, 2016.

4. Since constitutional validity of Sections 56, 57, 58 and 60 of the Bihar Prohibition and Excise Act, 2016 is under



challenge and the matter is pending before a Larger Bench in Cr.W.J.C. No. 2446 of 2017 (**Rahul Kumar @ Rahul Vs. The State of Bihar & Ors.**), let the aforesaid vehicle in question be released in favour of the petitioner as ad interim custody on execution of bank guarantee of Rs.50,000/- (rupees fifty thousand) or 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.

5. The release shall be subject to the final result of the pending Cr.W.J.C. aforesaid.

6. With the aforesaid observation and direction, this writ application, accordingly, disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	22.12.2017
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