

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2577 of 2017

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

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1. Raju Kumar S/o Mahendra Raut, R/o Village- Dedhpura, P.S.- Mahnar in the District of Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Department of Registration Excise And Prohibition, Government of Bihar, Patna.
2. The Principal Secretary, Department of Registration Excise and Prohibition, Government of Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The District Magistrate Cum Collector, Vaishali.
5. The Superintendent of Police, Vaishali.
6. The Excise Suprintendent , Vaishali.
7. The District Transport Officer, Vaishali.
8. The Officer In Charge, Mahnar, P.S.- in the District of Vaishali.

.... Respondent/s

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 19.08.2017 passed in connection with Cr. Misc. Case No.54 of 2017 by the Collector, Vaishali at Hajipur, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Glamour motorcycle bearing registration No.BR31R/5305, which was seized in connection with Mahnar P.S. Case No.15 of 2017, has been



refused and the referred vehicle has been confiscated.

3. Submission of the learned counsel of the petitioner is that the continued seizure of the vehicle would serve no purpose and its confiscation and auction would amount to pre-trial punishment, which is not permissible in law and the same issue is pending 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 country-made 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.50,000/-(Fifty thousand) or sale deed 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 without
permission of the authority concerned and shall produce as and when
required by the Court. The release shall be subject to the result of the
L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.12.2017
Transmission Date	08.12.2017

