

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2102 of 2017

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

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Mithun Singh, Son of Bhikhari Singh, R/o Paharpur, P.S. -Amdabad, District-Katihar.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary Excise Department, Patna, Bihar.
2. The District Magistrate, Katihar.
3. The Superintendent of Police, Katihar.
4. The S.H.O. Amdabad Police Station, Katihar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar Singh, Advocate

For the Respondents : Mr. Anil Kumar Sinha, G.A. 1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsel for the parties.

This writ application has been filed for quashing the notice dated 11.05.2017 issued in connection with Confiscation Case No. 147 of 2017-18 arising out of Amdabad P.S. Case No. 04 of 2017 whereby the Collector, Katihar has asked the petitioner to explain as to why his motorcycle bearing registration no. BR-39C-4102 be not confiscated.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise the power of confiscation, which is exercisable by a Judicial Authority, is under sub judice in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). In the circumstances, the operation of the impugned order be stayed and the vehicle be released, by way of ad interim custody, in favour of the petitioner as no purpose is going to be served by its continued



detention.

I find substance in the submission aforesaid. Proceeding of the confiscation case aforesaid including the operation of impugned order is directed to remain in abeyance till disposal of the above referred L.P.A. The proceeding shall be subject to the result of the L.P.A. aforesaid.

Since, no purpose is going to be served by keeping the motorcycle in seizure, let the same be released in favour of the petitioner, who claims to be owner thereof, by way of ad interim custody, on execution of bank guarantee of Rs.50,000/- (rupees fifty thousand) or sale deed of immovable property standing in the name of the petitioner or his wife, 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, 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

