

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 2726 of 2017

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

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Bidesh Saw, S/o Late Ramnadan Saw, R/o Village - Telhara Tola Gulab Bigha,
P.O. + P.S. - Amba. District - Aurangabad (Bihar).

.... Petitioner

Versus

1. The State of Bihar, through Principal Secretary, Excise Department,
Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Aurangabad (Bihar).
3. The Superintendent of Police, Aurangabad (Bihar).
4. The District Supply Officer, Aurangabad (Bihar).
5. The S.H.O. Kutumba, P.S., District- Aurangabad (Bihar).

.... Respondents

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Appearance :

For the Petitioner : Mr. Lal Bahadur Singh, Advocate

For the Respondents : Mr. Vivek Prasad, GP-7

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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. BR-26 D-3526 which was seized in connection with Kutumba P.S. Case No. 171 of 2017, a case registered under Section 30(A) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act') as the same was carrying one litre of Mahua wine in the dickey of the motorcycle.

3. Since constitutional validity of Sections 56, 57, 58 and 60 of the Act 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.

4. The operation of confiscation proceeding, if any, pending or order of confiscation, if any, found in respect of the said vehicle shall remain in abeyance till disposal of the Cr.W.J.C. aforesaid and the same shall be subject to the final result of the pending Cr.W.J.C.

5. 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
Transmission Date	22.12.2017

