

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 2248 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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Guddu Kumar, Son of Dhananjay Gope @ Dhananjay Prasad, resident of Village - Paltu Bigha, P.S. Tharthari, District - Nalanda, presently residing at Noorsarai, P.O. Noorsarai, P.S. - Noorsarai, District- Nalanda

.... Petitioner

Versus

1. The State of Bihar, through Principal Secretary, Home Department, Bihar, Patna.
2. The Principal Secretary, Excise Department, Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Superintendent of Police, Nalanda at Bihar Sharif.
5. The S.H.O., Tharthari Police Station (Nalanda)

.... Respondents

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Appearance :

For the Petitioner : Mr. Dilip Kumar No. 1, Advocate

For the Respondents : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 22-11-2017

Heard learned counsel for the parties.

2. The petitioner claims to be owner of Motorcycle Bajaj Pulsar 150 bearing registration no. BR21N-8915 which was seized in connection with Tharthari P.S. Case No. 43 of 2017 for alleged violation of the Bihar Excise Law.

3. By the impugned order dated 04.07.2017, the learned 6th Additional District & Sessions Judge-cum-Special Judge, Excise, Nalanda at Bihar Sharif refused to release the vehicle in favour of the petitioner on the ground of Section 60 of the Bihar Prohibition and Excise Act, 2016.

4. The aforesaid order is under challenge in this criminal writ petition.

5. The State-respondents have challenged the prayer on the ground that the order of the court below is consistent with the law applicable, hence, requires no interference.



6. Submission of the learned counsel for the petitioner is that no purpose would be served by continued detention of the vehicle till completion of the criminal trial because pre-trial confiscation of the seized article is challenged in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) before a Larger Bench of this Court.

7. After hearing the parties, finding substance in the submission aforesaid, let the aforesaid vehicle be released in favour of the petitioner on execution of surety bond of Rs.50,000/- (rupees fifty thousand) (not in the form of bank guarantee or cash) along with two sureties of the like amount 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.

8. The release shall be subject to the final result of the pending L.P.A. aforesaid.

9. With the aforesaid observation, this application stands disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	25.11.2017
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