

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 2458 of 2017

Arising Out of P.S. Case No. -null Year- null Thana -null District- BHAGALPUR

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Prem Chand Kumar @ Prem Sah S/o Om Prakash Sah, R/o Gulabibagh Aliganj,
P.S.- Mojahidpur (Babbarganj), District - Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Bihar Patna.
2. The District Magistrate, Bhagalpur.
3. The Senior Superintendent of Police, Bhagalpur.
4. The S.H.O. Mojahidpur P.S., Bhagalpur.
5. The S.H.O. Babarganj Out Post , Mojahidpur, Bhagalpur.
6. The Block Supply Officer, Sabour Cum Incharge Town Area 39 to 51, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dr. Manoj Kumar, Advocate

For the Respondents : Mr. Md. Nadim Seraj, G.P.-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-12-2017

Heard learned counsel for the parties.

2. This writ application has been filed against the order dated 04.09.2017 passed by the learned Chief Judicial Magistrate, Bhagalpur in Mojahidpur (Babarganj) P.S. Case No. 151 of 2016 whereby the learned Chief Judicial Magistrate has refused to release the vehicle of this petitioner bearing registration no. BR-10-H-5492 seized in connection with a case under Section 420 and 409 of the Indian Penal Code and Section 7 of the Essential Commodities Act. The refusal is on the ground that confiscation proceeding is going



on.

3. Submission of the learned counsel for the petitioner is that the jurisdiction of the executive authority to confiscate is under challenge before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**).

4. Hence, till adjudication of the aforesaid issue, let the aforesaid vehicle be released in favour of the petitioner, by way of ad interim custody, on execution of surety bond of Rs.2,00,000/- (rupees two lakhs) (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.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	16.12.2017
Transmission Date	16.12.2017

