

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2236 of 2017

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

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Devendra Kumar Ray, Son of Late Chandrika Ray, Resident of village- Sher,
Police Station- Sidhwalia, District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Registration ,
Excise and Prohibition, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The District Magistrate/Collector, Gopalganj.
6. The Superintendent of Police, Gopalganj.
7. The Excise Superintendent, Gopalganj.
8. The Sub Divisional Officer, Gopalganj.
9. The Officer- in-Charge of Sidhwalia Police Station, District- Gopalganj.
10. The Investigating Officer of Sidhwalia Police Station Case No. 82 of 2017,
Sidhwalia Police Station, Gopalganj.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Javed Aslam, Adv.

For the Respondent/s : Mr. Anil Kumar Sinha, G.A.-1.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 28-11-2017

Heard learned counsel for the parties.

2. Scorpio of this petitioner bearing
Registration No. J.H. 03G-4749 was seized in connection with
Sidhwalia P.S. Case No. 82 of 2017 for alleged violation of the
Bihar Excise Laws.

3. 46.260 liters of foreign liquor was allegedly
recovered therefrom. Subsequently, Confiscation (Excise)
Case No. 210 of 2017 has been initiated by the Collector,



Gopalganj for confiscation of the aforesaid vehicle.

4. The present writ application has been filed for interim release of the vehicle and quashing the order dated 29.08.2017 passed by the Collector, Gopalganj in Confiscation (Excise) Case No. 210 of 2017.

5. Submission of the learned counsel for the petitioner is that the power of confiscation exercised by the Executive Authority which is exercisable by a Judicial Authority is under challenge before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** Moreover confiscation of the vehicle prior to recording a finding of guilt would amount to pre-trial punishment which cannot be permitted under the law. Till adjudication of the aforesaid issue, interim release of the vehicle may be ordered in favour of the petitioner on any appropriate condition.

6. Learned counsel for the respondents opposed the prayer. However does not dispute the pendency of the aforesaid issue.

7. Considering the pendency of the aforesaid issue under consideration, let the referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of bank guarantee of Rs.7,00,000/- (Seven Lacs) or



document of immovable property standing in the name of the petitioner of equal value, with further condition that the petitioner shall not dispose of the said vehicle or put under encumbrance without permission of the Collector concerned.

8. 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 L.P.A. aforesaid and the same shall be subject to the final result of the L.P.A.

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

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2017
Transmission Date	29.11.2017

