

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No. 2419 of 2017**

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

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Jwala Singh, S/o Jagdev Singh, resident of Udandeeh, Police Station - Peero,  
District - Bhojpur.

.... .... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Govt. of Bihar.
2. The District Magistrate, Aurangabad.
3. The Superintendent of Excise Department, Aurangabad.
4. The Office In Charge, Police Station, Aurangabad.

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Nivedita Nirvikar, Advocate

For the Respondents : Mr. Vivek Prasad, G.P.-7

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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 preferred for quashing the order dated 18.09.2017 passed in Excise Case No. 231 of 2017 by the District Magistrate, Aurangabad in connection with NTPC Khaira P.S. Case No. 16 of 2017 whereby vehicle of this petitioner bearing registration no. BR 26H-7028 was confiscated as the same was carrying country made liquor.

3. Since constitutional validity of the provisions under Sections 56, 57, 58 and 60 of the Bihar Prohibition and Excise Act, 2016 relating to confiscation 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.3,00,000/- (rupees three lakhs) 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, if the vehicle has not been auctioned as on today.

4. In the meantime, operation of the impugned order dated 18.09.2017 shall remain stayed and the release shall be subject to the final result of the pending Cr.W.J.C. aforesaid.

5. With the aforesaid observation and direction, this writ application, accordingly, disposed of.

**(Birendra Kumar, J)**

Kundan/-

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| AFR/NAFR          | N.A.       |
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