IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2743 of 2017
Arising Out of PS.Case No. -null Year- null Thana -null District- SAMASTIPUR

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Sharmila Jha, W/o Vijay Kumar Jha, Resident of Village – Kalwara, Police Station Rosera, District Samastipur, at present R/o 6-Bhattacharjee Para Road, P.S. – Thakurpukur, Kolkata - 700063

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Excise, Govt. of Bihar, Old Secretariat, Patna, Bihar
2. The Collector, Samastipur, Bihar
3. The Superintendent of Police, Samastipur, Bihar
4. The Officer-in-Charge, Rosera Police Station, Samastipur
5. The Motor Vehicle Inspector, Samastipur, Bihar

.... Respondents

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Appearance :
For the Petitioner : Mr. Abhimanyu Sharma, Advocate
For the Respondents : Mr. Anil Kumar Sinha, G.A.-1

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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 preferred for quashing the order dated 02.08.2017 passed in Confiscation (Excise) Case No. 39 of 2017 by the District Magistrate, Samastipur in connection with Rosera P.S. Case No. 205 of 2016 whereby vehicle of this petitioner bearing registration no. WB41E9029 was confiscated as the same was carrying huge quantity of liquor.

3. Since constitutional validity of the provisions under Sections 56, 57, 58 and 60 of the Bihar Prohibition and Excise Act,

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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.5,00,000/- (rupees five 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.

4. In the meantime, operation of the impugned order dated 02.08.2017 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/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	22.12.2017
Transmission Date	22.12.2017

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