

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2443 of 2017

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

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Nitesh Kumar S/o Chandeshwar Prasad, R/o Village- Chulhaichak @ Chanhaichak,
P.S.- Rupaspur, P.O.- Khagaul, District- Patna. Petitioner

Versus

1. The State of Bihar.
 2. The District Magistrate, Gaya.
 3. The City Superintendent of Police, Gaya.
 4. The Sub Divisional Magistrate, Sherghati at Gaya.
 5. The Deputy Superintendent of Police, Sherghati, at Gaya.
 6. The Deputy Excise Commissioner, Gaya.
 7. The Excise Inspector of Police, Serghati at Gaya.
 8. The Officer In Charge, Barachatti, at Gaya. Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Anil Kumar Saxena, Adv.
For the Respondent/s : Mr. Vivek Prasad, G.P.-7.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the parties.

2. This writ application has been preferred for quashing the order dated 26.09.2017 passed in Excise Confiscation Case No. 168 of 2017 by the Collector, Gaya whereby the Collector has confiscated the vehicle of the petitioner bearing registration no. BR 01PD- 9248 which was seized in connection with Barachatti P.S.Case No. 273 of 2016 for alleged violation of the Bihar Excise Law as 213.12 liters of foreign liquor was allegedly recovered therefrom.

3. Submission of the learned counsel of the petitioner is that the continued seizure of the vehicle would serve no purpose and its confiscation and auction would amount to pre-trial punishment, which is not permissible in law and the same issue is



pending consideration before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** Hence, till adjudication of the aforesaid issue the operation of the impugned order be stayed and interim release of the vehicle be ordered as no purpose is going to be served by its continued detention in police lockup.

4. Finding substance in the submission aforesaid, let the aforesaid vehicle be released in favour of the petitioner on execution of **bank guarantee of Rs. 6,00,000/- (Six Lacs) or document of 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.

5. The operation of the impugned order shall remain stayed and the release shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.12.2017
Transmission Date	08.12.2017

