

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2259 of 2017

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

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Lal Mohan Choudhary Son of Late Munilal Choudhary, R/o Village- English, P.S.-
Barun, District- Aurangabad.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The District Magistrate Cum Collector, Aurangabad.
3. The Excise Superintendent , Aurangabad.
4. The Station House officer Cum-Officer-in-Charge- N.T.P.C., Khaira P.S. in the District of Aurangabad.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ranjit Kumar, 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. Mahendra Bolero (Jeep) of this petitioner bearing Registration No. BR26G-4443 was seized in connection with NTPC Khaira P.S.Case No.29 of 2017 for alleged violation of the Bihar Excise Laws.

3. 240 liters of liquor was allegedly recovered therefrom. Subsequently, Excise Confiscation Case No. 272 of 2017 has been initiated by the Collector, Aurangabad for confiscation of the aforesaid vehicle.

4. The present writ application has been filed for interim release of the vehicle and quashing the notice



dated 05.08.2017 whereby the Collector, Aurangabad has asked the petitioner to show case as to why the vehicle be not confiscated.

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 title on the immovable property standing in the name of the petitioner, 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
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