

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2377 of 2017

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

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Balram Paswan S/o Late Agamlal Paswan resident of Village Bhadreshwar, Ward No. - 02, P.S. - Jogbani (Bathnaha), District - Araria.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Collector, Araria.
3. The Superintendent of Police, Araria.
4. The Deputy Superintendent of Police, Araria.
5. Ramdeo Yadav, A.S.I. S/o Late Tulsilal Yadav Forbesganj, P.S. District Araria.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Adv.
For the Respondent/s : Mr. Vikash Kumar, S.C.-11.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the parties.

2. Chevrolet Tavera NED-3 of this petitioner bearing Registration No. BR38E-9272 was seized in connection with Forbesganj P.S.Case No.583 of 2017 for alleged violation of the Bihar Excise Laws.

3. Huge quantity of foreign liquor was allegedly recovered therefrom. Subsequently, Confiscation Case No. 117/2017-18 has been initiated by the Collector, Araria 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 20.10.2017 whereby the Collector, Araria 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.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.

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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