

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2457 of 2017

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

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1. Dr. Pawan Kumar @ Pawan Kumar S/o Dr. B.P. Yadav, R/o Belharia, P.S.-
Tekari, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Excise Department, Bihar ,
Patna.
2. The District Magistrate, Gaya.
3. The Superintendent of Police, Gaya.
4. The Officer In Charge Cum Investigating Officer, Tekari, Panchanpur, District-
Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, GA-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the parties.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 19.09.2017 passed in connection with Tekari Police Station Case No.349 of 2017 by the learned Special Judge Excise, Gaya, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle bearing registration No.BR-02T/9699, has been refused on the ground that Section 60 of the Act bars the jurisdiction of the Courts. Thereafter Collector, Gaya, has initiated confiscation proceeding for confiscation of the referred vehicle.



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 confiscation proceeding 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. The learned counsel for the State-respondent has opposed the prayer. However, does not dispute the aforesaid factual position of the pending issue in the L.P.A. aforesaid.

5. Finding substance in the submission of the learned counsel for the petitioner especially the fact that no purpose would be served by continued detention of the said vehicle, let referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.3,00,000/- (Three Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount 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 without permission of the authority concerned and shall produce as



and when required by the Court.

6. Let operation of the confiscation proceeding remain in abeyance till disposal of the L.P.A. aforesaid and shall be subject to the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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