

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2399 of 2017

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Md. Rafique Sai @ Md. Rafique, son of Md. Wasim, resident of Mohalla-Chainpura, Police Station- Biharsharif, District- Nalanda..... .. Petitioner

Versus

1. The State of Bihar, through Principal Secretary Excise Department Bihar, Patna.
 2. The District Magistrate, Nalanda.
 3. The Superintendent of Police, Nalanda.
 4. The District Transport Officer, Nalanda.
 5. The Officer-in- Charge, Asthawan Police Station- Asthawan, District- Nalanda.
- Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Hansraj, Adv.

For the Respondent/s : Mr. Kumar Manish, S.C.-5.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the parties.

2. Tavera of the petitioner bearing Registration No. WB-06-8809 was seized by the police in connection with Ashowan P.S. Case No. 135 of 2017 for alleged violation of the Bihar Excise Law.

3. 288 liters of country made liquor was allegedly recovered therefrom.

4. By the impugned order dated 22.09.2017, the learned Additional Sessions Judge- VI, Nalanda, Bihar-cum-Special Judge Excise, Nalanda at Biharsharif refused to release the vehicle in favour of the petitioner in the light of Section 60 of the Bihar Prohibition and Excise Act, 2016.

5. Submission of the learned counsel for the petitioner is that no purpose would be served by continued



detention of the vehicle till completion of the criminal trial because pre-trial confiscation of the seized article is challenged in **L.P.A. No. 1647 of 2015 (Baleshwar Roy vs. The State of Bihar & Ors.)** before a Larger Bench of this Court.

6. After hearing the parties, finding substance in the submission aforesaid, let the aforesaid vehicle be released in favour of the petitioner on execution of bank guarantee of Rs.5,00,000/-(Five 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 without permission of the authority concerned and shall produce as and when required by the Court.

7. 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.

8. With the aforesaid observation, this application stands disposed of.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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