

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2062 of 2017

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

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Ambika Bhagat @ Amika Bhagat son of Tarshan Bhagat,

.... Petitioner/s

Versus

The State of Bihar Through The Principal Secretary, Department of Excise, Bihar
Patna & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raghav Prasad, Advocate

For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 22-11-2017

Heard learned counsel for the parties.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 04.09.2017 passed in connection with G.B. Nagar Police Station Case No.327 of 2016 by the learned Additional Sessions Judge-II-cum-Special Judge, Siwan, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Bolero Jeep, bearing registration No.BR-29G/1258, has been refused on the ground that Section 60 of the Act bars the jurisdiction of the Courts.

3. Learned counsel for the petitioner submits that no excise item or any incriminating item was recovered from the vehicle of the petitioner. Moreover, the jurisdiction of the Executive Authority to exercise judicial power of confiscation and sale is subjudice before a larger Bench of this Court in **L.P.A. No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** Hence, till



disposal of the L.P.A. aforesaid, the vehicle, in question, be released by way of interim custody in favour of the petitioner.

4. Learned counsel for the State-respondent opposed the prayer. However, does not dispute the factual position of pendency of the L.P.A. aforesaid.

5. In the circumstances, let the above referred vehicle be released by way of ad interim custody in favour of the petitioner on execution of surety bond of Rs.5,00,000/- (Fifty Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount to the satisfaction of the authority concerned 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. The release order shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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