

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.532 of 2017

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

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Anil Kumar, Son of Rajdeo Sharma, Resident of Village- Indrapur Sholahanda, P.S. Makhdumpur, District Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. Jai Prakash Singh, Son of not known, presently posted as Sub-Inspector of Police, Bodh Gaya Police Station, District Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Murari Narain Chaudhary, Adv.
Mohit Shrivastava, Adv.
Vijay Kumar, Adv.

For the State : Mr. Shailesh Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-05-2017

Heard the parties.

2. This writ application has been filed for quashing the order dated 16.03.2017 passed in Bodh-Gaya P.S. Case No.163 of 2017 by the learned C.J.M., Gaya, whereby the learned court below has rejected the prayer of the petitioner for release of Swift Dzire Car bearing Reg. No.JH09AB0808 seized for alleged violation of the excise laws. The prayer has been refused on the ground that the court has no power to release such articles in view of the specific bar under Section 60 of the Bihar Prohibition and Excise Act, 2016.

3. Contention of the petitioner is that the question of law as to whether an executive authority can exercise judicial power of confiscation or auction of the vehicle is under consideration before



a Larger Bench in LPA No.1647 of 2015. Considering the aforesaid facts, in CWJC No.1791 of 2017 a Division Bench of this Court has ordered for release of the seized vehicle in favour of petitioner of that case.

4. Though, a counter affidavit has been filed disputing the claim of the petitioner, however, the aforesaid legal position has not been disputed at the time of argument.

5. Considering the aforesaid facts, let the aforesaid vehicle be released in favour of the petitioner after verification of the ownership, of the vehicle, of the petitioner by way of ad-interim custody on execution of surety bond of Rs.7,00,000/- (seven lacs) along with two sureties of the like amount with condition that the petitioner shall not dispose of the said vehicle without permission of the court and shall produce as and when required by this Court. This order shall be subject to result of the LPA aforesaid.

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

Arvind/-

(Birendra Kumar, J)

AFR/NAFR	
CAV DATE	
Uploading Date	17.05.2017
Transmission Date	17.05.2017

