

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 781 of 2017

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

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Kamlesh Singh @ Kamalesh Singh, Son of Suresh Singh, Resident of Village - Amsari, P.S. - Murar, District - Buxar. At Present Address - 56 Lakarka, 6 No. Katrasgarh, Dhanbad (Jharkhand)

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Buxar
2. The Superintendent of Police, Buxar
3. S.H.O. Sonvarsa, District - Buxar

.... Respondents

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Appearance :

For the Petitioner : Mr. Anil Kumar Singh, Advocate

For the Respondents : Mrs. Manisha Singh, A.C. to G.P. VII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-07-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of Bolero vehicle bearing registration no. JH-10-AN-3626 which was seized in connection with Nawanagar (Sonvarsa) P.S. Case No. 06 of 2017 corresponding to G.R. No. 50 of 2017 for alleged violation of the Excise Laws.

By the impugned order dated 01.05.2017, the learned 2nd Additional District Judge-cum-Special Court, Excise Act, Buxar refused to release the vehicle in favour of the petitioner for the reason that Section 60 of the Bihar Prohibition and Excise Act, 2016 bars jurisdiction of the court in such matter.

The said order is under challenge in this criminal writ petition.

The State-respondents, in their counter affidavit, have



challenged the prayer on the ground that the order of the special court is consistent with the law applicable, hence, requires no interference.

Considering the fact that power of the Executive Authority to confiscate and auction the seized articles, which is a judicial power, is under challenge before a Larger Bench in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) as well as considering the fact that different Division Benches of this Court have ordered interim release of the seized vehicle in favour of the owner of the vehicle, let the vehicle in question be released in favour of the petitioner on execution of surety bond of Rs.7,00,000/- (rupees seven lakhs) (not in the form of bank guarantee) along with two sureties with condition that the petitioner shall not dispose of the same without permission of the Court and shall produce the vehicle as and when required by the court.

This order shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	13.07.2017
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