

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 954 of 2017

Arising out of P.S. Case No. - null Year - null Thana - null District - PATNA

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Niranjan Kumar, Son of Late Rajeshwar Prasad, Resident of Village - Mankipar,
P.S. - Dhanarua, District - Patna and at present Residing at 185/C, Moutya Vihar
Colony, Kumhrar, Patna

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Excise and Prohibition, Govt. of Bihar, Patna,
2. The District Magistrate, Nalanda,
3. The Senior Superintendent of Police Nalanda,
4. The Office-In-Charge of Deepnagar Police Station, Nalanda

.... Respondents

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Appearance :

For the Petitioner : Mr.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 23-08-2017

This writ application is directed against the order dated 13.06.2017 passed by the District Magistrate, Nalanda in connection with Confiscation (Excise) Case No. 32 of 2017 whereby the Collector has refused to release the seized PUNTO FIAT Car bearing registration no. BR-01CK-2830. The said vehicle was seized in connection with Excise Case No. 27 C3 Ex of 2017 registered under Section 37(b) of the Bihar Prohibition and Excise Act, 2016. The Collector has confiscated the said vehicle.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise the power of confiscation, which is exercisable by a Judicial Authority, is under sub-judice in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). Hence, the operation of the impugned order be stayed and the



vehicle be released, by way of ad interim custody, in favour of the petitioner as no purpose is going to be served by continued detention.

I find substance in the submission aforesaid, hence, proceeding of the confiscation case aforesaid including the operation of impugned order is directed to remain in abeyance till disposal of the above referred L.P.A. The proceeding shall be subject to the result of the L.P.A. aforesaid.

Since, no purpose is going to be served by keeping the car in seizure, let the same be released in favour of the petitioner, who claims to be owner, thereof, by way of ad interim custody on execution of surety bond of Rs.5,00,000/- (rupees five lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount 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.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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