

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.997 of 2017

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1. Sachin @ Sonu Kumar, S/o Nalin Chandra Singh, resident of Village-
Rajba, P.S.- Biraul District- Darbhanga.

.... Petitioner

Versus

1. The State of Bihar Through Principal Secretary Excise Department Bihar, Patna.
2. The State of Bihar through the Insepctor General of Police, Government of Bihar.
3. The Superintendent of Police, Madhubani.
4. The S.H.O. Sakari Police Station, Madhubani.
5. The Regional Transport Officer, Madhubani.
6. The Road Transport Officer, Madhubani.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjay Kumar @ Manu, Adv.
For the Respondents : Mr. Vivek Pd.(Gp7)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 09-08-2017

Heard the parties.

The petitioner has invoked the writ jurisdiction of this Court for quashing the order, dated 26.11.2016, passed in Sakari P.S. Case No. 72 of 2016 whereby the Court below has refused to release the vehicle of the petitioner. Further, prayer is for quashing the order, dated 26.11.2016, passed by the learned Sessions Judge, Madhubani, in Criminal Revision No. 2 of 2017 whereby the learned Sessions Judge has refused to interfere with the order of the Court below.

The Alto car of the petitioner, bearing registration no. BR-07U-0369, was seized in connection with the aforesaid Sakari P.S. Case No. 72 of 2016, a case under Sections 47A and 53B of the Bihar Excise Amendment Act, 2016.

Submission of the learned counsel for the petitioner is that the prayer was refused on the ground that Section 60 of the Bihar Prohibition and Excise Act, 2016, bars jurisdiction of the Court in the matter of releasing of the seized articles.



His contention is that no purpose would be served by continued detention of the vehicle, specially in the circumstance that the authority of the executive agency to confiscate and auction the seized articles is under challenge before a larger Bench of this Court in **L.P.A. No. 1647 of 2015 (Baleshwar Roy Vrs. The State of Bihar & Ors.)**.

The learned counsel for the respondents submits that interim release may be ordered in favour of the petitioner. However, the order must be subject to the result of the Letters Patent Appeal, aforesaid.

After hearing the parties and considering the aforesaid facts, let the vehicle in question be released in favour of the petitioner by way of ad interim custody, let the vehicle, referred above, be released in favour of the petitioner on execution of surety bond of Rs. 4,00,000/- (rupees four lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Madhubani, in connection with Sakari P.S. Case No. 72 of 2016 (G.R. No. 1821 of 2016). The petitioner shall not disposed off the vehicle without permission of the Court where the case would be pending and shall produce as and when required.

The interim release shall be subject to the result of pending Letters Patent Appeal.

With the aforesaid observations, this application stands **disposed off**.

(Birendra Kumar, J)

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