

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1301 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- SASARAM (ROHTAS)

1. Kamlesh Kumar son of Ramdhani Yadav Resident of Village - Police Line,
P.O. - Rampur, Gaya, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Bihar, Patna.
2. The Divisional Forest Officer-cum-Authorised Officer, Rohtas Forest Division, Rohtas.
3. The Forester, Darigaon Range, Rohtas (Sasaram).

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwary, Advocate

For the Respondent/s : Mr. Gajendra Prasad Singh, SC-17

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 24-08-2017

Learned counsel for the petitioner is permitted to make necessary correction in the registration number of the truck as stated in the writ petition.

Heard learned counsel for the parties.

2. The present writ application has been filed for issuance of a mandamus commanding the respondent to release the Truck of the petitioner bearing registration No.JH-05S/3115, which was seized in connection with Forest Case No.48 of 2017.

3. Learned counsel for the petitioner submits that Confiscation Case No.117 of 2017 has already been initiated and the issue whether the Executive Authority can exercise the power of a judicial authority in the matter of confiscation of the vehicle is subjudice before a larger Bench of this Court in **LPA No.1647 of 2015 (Baleshwar Roy V. The State of Bihar & Ors.)**. Hence, till disposal of the L.P.A. aforesaid, the further proceeding before the



competent authority in confiscation case be stayed and the vehicle be released in favour of the petitioner by way of ad interim custody.

4. Finding substance in the submission aforesaid as well as considering the fact that different Division Benches of this Court have ordered interim release of the vehicle in other cases in the similar circumstances, let the truck, in question, be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.20,00,000/- (Twenty 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 or till disposal of the Forest Case aforesaid whichever is earlier and shall produce as and when required by the Court. Further proceeding of Confiscation Case No.117 of 2017, arising out of Forest Case No.48 of 2017, pending before the Divisional Forest Officer, Sasaram in the district of Rohtas, shall remain stayed till disposal of the L.P.A aforesaid and shall be subject to the result of the pending L.P.A.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2017
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