IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1029 of 2017

Arising out of P. S. Case No. - Durgawati Year – 2016-17 Thana - Durgawati District - BHABHUA (KAIMUR)

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Nithohar Ram, Son of Nakchhedi Ram, R/o Village Isia, P.S. Chainpur, District Kaimur at Bhabua

.... Petitioner

Versus

1. The State of Bihar through the Commissioner, Excise Department, Bihar, Patna
2. The State of Bihar through the Collector-cum-District Magistrate, Kaimur at Bhabua
3. The Superintendent of Police, Kaimur at Bhabhua
4. The Officer-in-Charge of Chand Police Station - Kaimur at Bhabua

.... Respondents

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Appearance :
For the Petitioner : Mr. Tribhuwan Narayan, Advocate
For the Respondents : Mr. Vivek Prasad, G.P.-VII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 18-07-2017

This writ application is directed against the order dated 11.05.2017 passed by the Collector, Kaimur at Bhabua in connection with Confiscation Case No. 184 of 2016-17 vide Annexure-4 whereby the Collector has refused to release the seized motorcycle bearing registration no. BR45D-0836. The said vehicle was seized in connection with Durgawati P.S. Case No. 46 of 2017 registered under Section 30(a) 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.**) and, hence, the operation of the impugned order be

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stayed and the vehicle be released, by way of ad interim custody, in favour of the petitioner as no purpose is going to be 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 motorcycle in seizure. Let the same be released in favour of the petitioner, who claims to be owner, thereafter, by way of ad interim custody on execution of surety bond of Rs.50,000/- (rupees fifty thousand) (not in the form of bank guarantee) 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.
Uploading Date	19.07.2017
Transmission Date	19.07.2017

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