

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 2074 of 2017

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

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MUKESH PRASAD SINGH @ MUKESH KUMAR SINGH, S/o Rajendra Prasad Singh, R/o Village - Basgarha, P.S. - Korha, District - Katihar.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate, Khagaria.
3. The Superintendent of Police, Khagaria.
4. The S.H.O. Mansi Police Station, P.S. - Mansi, District - Khagaria.

.... Respondents

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Appearance :

For the Petitioner : Mr. Praveen Kumar Agrawal, Advocate

For the Respondents : Mr. Vivek Prasad

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsels for the parties.

TATA Indigo of the petitioner bearing registration no. BR-11Q-1877 was seized by the police in connection with Mansi P.S. Case No. 137 of 2017 for the offences under Sections 188, 120(B)/34 of the Indian Penal Code and Sections 30(a) of the Bihar Prohibition and Excise Act, 2016.

By the impugned order dated 26.07.2017, the learned 3rd Additional Sessions Judge, Khagaria 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 aforesaid order is under challenge in this criminal writ petition.

The State-respondents have challenged the prayer on the



ground that the order of the court below is consistent with the law applicable, hence, requires no interference.

Submission of the learned counsel for the petitioner is that no purpose would be served by continued detention of the vehicle till completion of the criminal trial because pre-trial confiscation of the seized article is challenged in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) before a Larger Bench of this Court.

After hearing the parties, finding substance in the submission aforesaid, let the aforesaid vehicle be released in favour of the petitioner on execution of surety bond of Rs.6,00,000/- (rupees six lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount each to the satisfaction of the learned court below/authority concerned where the case is pending, with condition that the petitioner would not dispose of the said vehicle or put the same under encumbrance without permission of the authority concerned and shall produce as and when required by the Court.

The release shall be subject to the final result of the pending L.P.A. aforesaid.

With the aforesaid observation, this application stands disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.11.2017
Transmission Date	20.11.2017

