

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1684 of 2017

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

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Sima Devi, wife of Ramchandra Kumar, resident of village Kundar, P.S.
Lakhisarai, District Lakhisarai

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Patna
2. The District Magistrate, Jamui
3. The Superintendent of Police, Jamui
4. The District Supply Officer, Jamui
5. The S.H.O. Sikandara, P.S. Sikandara, District Jamui

.... Respondents

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Appearance :

For the Petitioner : Mr. Ram Sumiran Rai, Advocate

For the Respondents : Mr. Vivek Prasad, G.P.-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-10-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of Bolero vehicle bearing registration no. BR-46A-8074 which was seized in connection with Sikandara P.S. Case No. 36 of 2017 for alleged violation of the Excise Laws.

The petitioner moved before the learned Additional Chief Judicial Magistrate, Jamui for release of the Bolero vehicle on the ground that petitioner is the owner of the same and no purpose would be served in continuance of the seizure of the Bolero vehicle rather it would cause external and internal damage to the vehicle.

By order dated 16.06.2017, the learned Additional Chief Judicial Magistrate, Jamui rejected the prayer of the petitioner



on the ground that confiscation proceeding is going on before the District Magistrate, Jamui.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise power, of a judicial authority to confiscate the vehicle, is under sub judice before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 **(Baleshwar Roy vs. The State of Bihar & Ors.)**. In the circumstances, till disposal of the L.P.A. aforesaid, further proceeding in pursuance of the impugned order be stayed and the vehicle be released as ad interim custody in favour of the petitioner as no purpose is going to be served by its continued detention.

Learned counsel for the State-respondent submits that he has no objection.

Since the jurisdiction of the authority concerned (Executive Authority) to confiscate the vehicle is sub judice before this Court, there is no reason to not grant the interim relief to the petitioner till adjudication of the aforesaid issue.

Let the referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.8,00,000/- (rupees eight 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 Additional Chief Judicial Magistrate,



Jamui, with condition that the petitioner shall not dispose of the same without permission of the court and shall produce as and when required.

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

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

(Birendra Kumar, J)

Kundan/-

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