

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1435 of 2017

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

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1. Bilash Mukhiya Son of Nemani Mukhiya, R/o village- Godhiyari, Tola Basbitti, Ward No. 05, P.S. & District- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar Through Principle Home Secretary, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Collector Cum District Magistrate, Madhepura, District- Madhepura.
4. The Superintendent of Police, Madhepura, District- Madhepura.
5. The Excise Superintendent, Madhepura.
6. The Officer Incharge, Singheshwar, District- Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
For the Respondent/s : Mr. Anil Kumar Sinha, Ga-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 04-09-2017

Heard learned counsel for the parties.

2. This application has been preferred for quashment of order dated 06.06.2017 passed by the Collector, Madhepura, whereby he has ordered for confiscation and auction of the four-wheeler of the petitioner bearing registration No.BR-43A/6149, which was seized in connection with Singheshwar P.S. Case No.211 of 2016 for alleged violation of the Excise laws.

3. Submission of the learned counsel for the petitioner is that authority of the Executive to confiscate and auction the vehicle is under challenge in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** before a larger Bench of this Court on the



ground that such power is exercisable only by a judicial authority. Hence, till disposal of the L.P.A. aforesaid interim custody of the vehicle be handed over to the petitioner as no purpose is going to be served by its continued detention.

4. The learned counsel for the State-respondent has opposed the prayer. However, does not dispute the aforesaid factual position of the pending issue in the L.P.A. aforesaid.

5. Finding substance in the submission of the learned counsel for the petitioner especially the fact that no purpose would be served by continued detention of the said vehicle, let referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.4,00,000/- (Four Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount with condition that the petitioner would not dispose of the said vehicle without permission of the authority concerned and shall produce as and when required by the Court. This order shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2017
Transmission Date	

