

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1256 of 2017

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

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1. Leela Devi, W/o Rajendra Yadav, Resident of Village Bhirbhin, P.S. Sikty, District- Araria.

.... Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, the Government of Bihar, Patna.
2. The Collector, Araria.
3. The Superintendent of Police, Araria.
4. The Deputy Superintendent of Police, Araria.
5. Dhananjay Kumar, S.I. S/o Sriagdish Prasad Singh, resident of Village Goradih, P.S. Rajoun District- Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate

For the Respondent/s : Mr. Sheo Shankar Prasad, SC-8

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 29-08-2017

Petitioner is permitted to correct Chassis and Engine number of the motorcycle as stated in para-1 of the petition.

2. Heard learned counsel for the petitioner and learned counsel for the State-respondents.

3. Hero Delux motorcycle of this petitioner bearing Chassis No.MBLHA11ATF9H32596 and Engine No.HA11EJF9H-02608 was seized in connection with Sikty P.S. Case No.114 of 2016, a case under Sections 272/273 of the Indian Penal Code and Section 47 of the Bihar Prohibition and Excise Act, 2016.

4. The petitioner approached before the learned



Additional District & Sessions Judge-II, Araria, for ad interim release of the said motorcycle and the prayer was refused for the reason that Section 60 of the Act bars jurisdiction of the court to entertain application for release of the vehicle.

5. However, the power of the Executive Authority to confiscate 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, prayer is for ad interim release of the vehicles.

6. 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.

7. 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 motorcycle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.50,000/- (Fifty Thousand), 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.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2017
Transmission Date	30.08.2017

