

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1443 of 2017

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

- =====
1. Puja Kumari W/o Munilal Madal, R/o Bara Jirwabari, Chanan, P.S.- Jirwabari, Chanan, District- Sahebganj (Jharkhand).

.... Petitioner/s

Versus

1. The State of Bihar Through The Director General of Police, Government of Bihar, Patna.
2. The Inspector General of Police, Bihar, Patna.
3. The District Magistrate Cum Collector, Banka.
4. The Superintendent of Police, Banka.
5. Superintendent of Excise, Banka.
6. The District Transport Officer, Banka.
7. The Officer In Charge, Pnjwara P.S., District- Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar Jha, 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. The petitioner is owner of Bolero bearing registration No. JH04M/7324, Engine No.GPF 4M 85137, Chesis No.MA1PS2GPK5A48705. The said vehicle was seized in connection with Pajwara P.S. Case No.07 of 2017, a case registered for alleged violation of the Excise laws.

3. Submission of the learned counsel for the petitioner is that the Collector, Banka, confiscated the said vehicle on 14.07.2017 in Confiscation (Excise) Case No.29/2017-18. In this writ petition the aforesaid order of confiscation is under challenge.



4. Submission of the learned counsel for the petitioner is that the jurisdiction of the Executive Officer to confiscate the vehicle is subjudice before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** In the circumstances, till pendency of the L.P.A. aforesaid operation of the impugned order be stayed and the vehicle in question be released in favour of the petitioner as no purpose is going to be served by its continued detention in police lockup.

5. Learned counsel for the State-respondent opposed the prayer on the ground that the authorities are competent under the provisions of Bihar Prohibition and Excise Act, 2016, to confiscate. Hence, the petitioner cannot get interim relief of release of the vehicle.

6. Considering the fact that authority of the executive to confiscate the seized vehicle under the Excise Act and other provisions is under consideration before a larger Bench of this Court as referred above, the operation of the impugned order shall remain stated till further order and shall be subject to the result of L.P.A. aforesaid.

7. Since no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the
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vehicle, let the same be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.10,00,000/- (Ten 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.

8. 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	

