

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1180 of 2017

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

- =====
1. Santosh @ Santosh Kumar Singh Son of Uday Narayan Singh Resident of Village - Gahmar, P.S. - Gahmar, District - Gajipur (U.P.).

.... Petitioner/s

Versus

1. The State of Bihar through Excise Department, Bihar, Patna.
2. The District Magistrate, Buxar, Dist - Buxar.
3. The Superintendent of Police Buxar, District - Buxar.
4. Officer-in-Charge, Itarhi Police Station, Dist - Buxar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha, Advocate

For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 01-08-2017

Heard learned counsel for the petitioner and the State.

The Bolero vehicle of this petitioner, bearing registration No.UP-61AA-1514, was seized in connection with Itarhi P.S. Case No.121 of 2017, under Sections 417/419/420/290/34 of the Indian Penal Code and Sections 30(b) and 30(a) of the Bihar Prohibition and Excise Act, 2016.

The petitioner filed a petition before the Special Court of learned Additional Sessions Judge-II, Buxar, for release of the aforesaid vehicle on 24.06.2017 and a report was called for from the authority concerned. The authority submitted a report stating therein that for initiation of confiscation proceeding of the seized vehicle the



papers were sent to the Collector, Buxar.

Submission of the petitioner is that the question whether the Collector has authority to confiscate and auction the vehicle, which is a judicial function, is subjudice before a larger Bench of this Court in LPA No.1647 of 2015 and considering the pendency of the aforesaid LPA in other matters also different Division Benches of this Court have ordered for interim release of the vehicle in favour of the owner.

Learned counsel for the respondent has no objection in interim release of the vehicle in favour of the petitioner. However, his submission is that release would be subject to the result of the L.P.A. and the pending confiscation proceeding.

Considering the facts and circumstances above, let the aforesaid vehicle be released in favour of the petitioner after verification of the ownership of the vehicle of the petitioner by way of ad-interim custody on execution of surety bond of Rs.12,00,000/- (Twelve Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount with condition that the petitioner shall 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.

The petitioner shall file undertaking that he will not use



the vehicle for such purpose in future.

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

Mkr./-

(Birendra Kumar, J)

AFR/NAFR	NAFR
CAV DATE	NA
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