

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1505 of 2017

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

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1. Subhash Chandra Khan Son of Ram Gulam Khan, Resident of Village-
Bangaon South Tola, Ward No. 6, Police Station- Saharsa, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Bihar Excise Department

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate

For the Respondent/s : Mr. D.K. Verma, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 14-09-2017

Heard learned counsel for the parties.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 01.07.2017 passed in connection with Saharsa Sadar Police Station Case No.175 of 2017 by the learned Additional Sessions Judge-II-cum-Special Judge (Excise), Saharsa, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Indigo Car, bearing registration No.BR-19K/1334, has been refused on the ground that Section 60 of the Act bars the jurisdiction of the Courts.

5. Learned counsel for the petitioner submits that no purpose is going to be served by continued detention of the seized vehicle. He further submits that 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, till disposal of the L.P.A. aforesaid interim custody may be ordered in favour of the petitioner.

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 vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.5,00,000/- (Five Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount each to the satisfaction of the concerned authority 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.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2017
Transmission Date	19.09.2017

