

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1120 of 2017

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

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1. Ansar Ali Son of Shahmat Ali, R/o Village- Harihans, P.O.- Harihans, P.S.- Hussainganj, Dist.- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
2. The District Magistrate , Siwan.
3. The Superintendent of Police, Siwan.
4. The Officer-In-Charge, Hussainganj Police Station, P.S.- Hussainganj, District-Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hemant Kumar Sharan, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-09-2017

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

2. The State-respondents has not filed counter affidavit in pursuance of the order dated 06.09.2017.

3. The writ application has been preferred for release of Bolero vehicle bearing registration No. JH 04G/4136, which was seized in connection with Husseinganj P.S. Case No.37 of 2017 for alleged violation of the provisions of Excise laws.

4. Prayer of the petitioner for release of the vehicle is still pending vide Annexure-4 with the learned Chief Judicial Magistrate, Siwan.

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 the interim custody may be ordered in favour of the petitioner.

6. 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.8,00,000/- (Eight 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
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