

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1806 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District-
EASTCHAMPARAN(MOTIHARI)

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1. Vishwanath Prasad S/o Lakshman Prasad Resident of Ward No. - 5, Adarsh
Nagar, Ghorasahan, P.S. - Ghorasahan, Motihari, District - East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary Excise and Prohibition
Department, Bihar, Patna.
2. The District Magistrate Cum Collector East Champaran.
3. The Superintendent of Police, East Champaran.
4. The Sub Divisional Police Officer, Sikarahna, East Champaran.
5. The S.H.O. Kundwa Chainpur Police Station, Sikarahna, East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar, Advocate

For the Respondent/s : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 17-10-2017

Heard learned counsel for the petitioner and the State.

2. The Tata 407 of this petitioner, bearing registration
No.BR-05GA/6233, was seized in connection with Kundwa
Chainpur P.S. Case No.126 of 2016 for alleged violation of the Bihar
Excise Law. The Collector, East Champaran at Motihari, initiated
confiscation proceeding of the vehicle of the petitioner in connection
with Excise Confiscation Case No.63 of 2017.

3. 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
confiscation proceeding 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.

4. 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 confiscation proceeding shall remain stayed till further order and shall be subject to the result of L.P.A. aforesaid.

5. Since commercial quantity of liquor was recovered from the vehicle of the petitioner and no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the petitioner by way of ad interim custody on execution of **bank guarantee of Rs.7,00,000/- (Seven Lacs)** to the satisfaction of the learned Court-below/authority concerned where the case is pending, with condition that the petitioner would not dispose of the said vehicle or put the same under encumbrance without permission of the authority concerned and shall produce as and when required by the Court. The release shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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