

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1849 of 2017

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

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Uday Kumar Singh @ Uday Ku. Singh Son of Chandradeo Singh Resident of Shivpur, Post Office - Kush Narayanpur, Police Station - Husainabad, District - Palamu (Jharkhand).

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise, Government of Bihar, Patna.
2. The Principal Secretary, Excise, Government of Bihar, Patna.
3. The District Magistrate, Aurangabad.
4. The Superintendent of Police, Aurangabad.
5. The Excise Superintendent, Department of Excise, Aurangabad.
6. The Officer in Charge, Navinagar Police Station District Aurangabad.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ravi Shankar Pankaj, Adv.
For the Respondent/s : Mr. Choudhary Shyam Nandan, Adv.
For the State : Mr.Kumar Ravish, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 16-10-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 13.07.2017 passed in connection with Excise (Confiscation) Case No.40 of 2017, arising out of Nabinagar P.S. Case No.159 of 2016, by the Collector, Aurangabad, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Bolero bearing registration No.JH07B-1751, has been refused and the referred vehicle has been confiscated.



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 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.

4. Commercial quantity of liquor was recovered from the vehicle of the petitioner.

5. 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 stayed till further order and shall be subject to the result of L.P.A. aforesaid.

6. Since 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.6,00,000/- (Six 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



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.

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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