

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2089 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- VAISHALI(HAJIPUR)

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Satyendra Rai @ Nirsu Rai, S/o Late Baleshwar Rai, Resident of Village - Tanda
Singhada, Police Station - Mahua, District - Vaishali

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Excise Department Patna Bihar
2. The Excise Commissioner, Bihar, Patna
3. The Collector, Vaishali at Hajipur
4. The Excise Superintendent, Vaishali at Hajipur

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajeev Ranjan Sinha, Advocate

For the Respondents : Mr. Vivek Prasad, G.P. VII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsels for the parties.

This writ application has been preferred for quashing the order dated 20.06.2017 passed by the Collector, Vaishali in connection with Misc. Case No. 01 of 2016-17 vide Annexure-4 whereby the Collector has refused to release the seized Bolero bearing registration no. BR-31PA-1384 which was seized in connection with Case No. C2A-143 of 2016 registered under Sections 47(a), 47(d), 51 and 54 of the Bihar Prohibition and Excise Act, 2016.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise the power of confiscation, which is exercisable by a Judicial Authority, is under sub judice in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). In the circumstances, the operation of the impugned order be



stayed and the vehicle be released, by way of ad interim custody, in favour of the petitioner as no purpose is going to be served by its continued detention.

I find substance in the submission aforesaid, proceeding of the confiscation case aforesaid including the operation of impugned order is directed to remain in abeyance till disposal of the above referred L.P.A. The proceeding shall be subject to the result of the L.P.A. aforesaid.

Since, no purpose is going to be served by keeping the aforesaid vehicle in seizure, let the same be released in favour of the petitioner, who claims to be owner thereof, by way of ad interim custody on execution of bank guarantee of Rs.6,00,000/- (rupees six lakhs) or sale deed of immovable property standing in the name of the petitioner or his wife, with condition that the petitioner shall not dispose of the same without permission of the Court and shall produce the vehicle as and when required by the Court.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	17.11.2017
Transmission Date	17.11.2017

