

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2097 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- BHABHUA (KAIMUR)

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1. Niranjana Prasad @ Niranjana Prasad Seth Son of Dhupana Sah Resident of Village Panikap Khurd, Post Raipur, Tehsil - Robertaganj, District - Sonbhadra (U.P.)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar Prohibition and Excise Department, Government of Bihar, Old Secretariate, Patna.
2. The Deputy Excise Commissioner, Kaimur at Bhabua.
3. The District Magistrate, Kaimur at Bhabua.
4. The Superintendent of Police, Kaimur at Bhabua.
5. The Officer-in-Charge, Adhaura, P.S. Kaimur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhaneshwar Prasad Gupta, Advocate

For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 22-11-2017

Heard learned counsel for the petitioner and the State.

2. Commercial quantity of Mahua was recovered from the pickup of the petitioner bearing registration No.UP64T-4209 and Adhaura P.S. Case No.19 of 2017 was registered under Section 47(A) and 3 of the Bihar Excise Mahua Flowers Act, 2006. Subsequently, Confiscation Case No.32 of 2017-18 was initiated for confiscation of the aforesaid vehicle and by order dated 25.08.2017 contained in Annexure-4 the said vehicle was confiscated.

3. The present writ application has been filed challenging the confiscation order on the ground that pre-trial confiscation is bad-in-law and the aforesaid issue is under consideration before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** Hence, till adjudication of the



aforesaid issue the operation of the impugned order be stayed and interim release of the vehicle be ordered as no purpose is going to be served by its continued detention in police lockup.

4. After hearing the parties and finding substance in the submission aforesaid regarding pendency of the issue before a larger Bench as to whether the executive authority can confiscate the seized vehicle before proof of guilt, the operation of the impugned order is stayed till adjudication of the aforesaid issue in the L.P.A. aforesaid and shall be subject to the result of the L.P.A. aforesaid.

5. Since commercial quantity of liquor was recovered from the vehicle of the petitioner, let the same be released in favour of the petitioner by way of ad interim custody on execution of **bank guarantee of Rs.1,00,000/- (One Lac)** 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.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.11.2017
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