

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2326 of 2017

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

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1. Krishna Kant Singh, S/o Krishna Murari Singh, Resident of Village- Mudanwa, Anchal- Goh, P.S.- Goh, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar Through Its Collector, Gaya.
2. The Senior Superintendent of Police, Gaya.
3. The Deputy Superintendent of Police, Tekari, Gaya.
4. The State of Bihar through its Principal Secretary, Excise Department, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Sinha, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 28-11-2017

Heard learned counsel for the parties.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 12.09.2017 passed in connection with Konch Police Station Case No.199 of 2017 by the learned Special Judge, Excise, Gaya, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Maruti Suzuki (Swift) bearing registration No.BR-02AE/1046, has been refused on the ground that Section 60 of the Act bars the jurisdiction of the Courts.

3. Submission of the learned counsel for the petitioner is that no purpose would be served by continued detention of the vehicle; rather it would get rotten. Moreover, the jurisdiction of the Executive Authority to exercise judicial power of confiscation and sale is subjudice before a larger Bench of this Court in **L.P.A. No.1647 of 2015 Baleswar Roy V. The State of Bihar & Ors.**



Hence, till disposal of the L.P.A. aforesaid, the vehicle, in question, be released by way of interim custody in favour of the petitioner.

4. Learned counsel for the State-respondent opposed the prayer. However, does not dispute the factual position of pendency of the L.P.A. aforesaid.

5. Finding substance in the submission aforesaid, let the above referred vehicle be released by way of ad interim custody in favour of the petitioner on execution of surety bond of Rs.3,00,000/- (Three Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount 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 order shall be subject to the result of the L.P.A. aforesaid.

6. Let operation of the confiscation proceeding, if any, remain in abeyance till disposal of the L.P.A. aforesaid and shall be subject to the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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