

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2090 of 2017

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

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Paras Nath Kumar, Son of Dasarath Das, Resident of village - Shivnagar Nunia
Tola, P.S. - Bairgania, Dist. - Sitamarhi

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
2. The District Magistrate, East Champaran, Motihari.
3. The Superintendent of Police, East Champaran, Motihari.
4. The Officer-in-Charge, Ghorasahan Police Station, Dist.- East Champaran, Motihari.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhurendra Kumar, Advocate

For the Respondents : Mr. Anil Kumar Sinha, G.A. 1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Learned counsel for the petitioner seeks permission to make necessary correction in paragraph no. 1 of the writ petition in course of the day.

Prayer is allowed.

Heard learned counsel for the parties.

Hero Glamour Motor Cycle of the petitioner bearing registration no. BR-06AH-5686 was seized by the police in connection with Ghorasahan (Jitna) P.S. Case No. 454 of 2016 corresponding to G.R. Case No. 1139 of 2016 for the offences under Sections 272, 273 of the Indian Penal Code and Section 30(a) of the Bihar Excise Law.



The petitioner moved the court below for release of the said vehicle on the ground that no purpose would be served by continued detention of the vehicle pre-trial. The prayer was refused by the learned Magistrate vide order contained in Annexure-3 which was challenged before the learned Sessions Judge in Cr. Revision No. 100 of 2017 and again prayer was refused on 11.04.2017 vide Annexure-4 on the ground that the same is not maintainable.

Submission of the learned counsel for the petitioner is that no purpose would be served by continued detention of the vehicle till completion of the criminal trial because pre-trial confiscation of the seized article is challenged in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) before a Larger Bench of this Court.

After hearing the parties, finding substance in the submission aforesaid, let the aforesaid vehicle be released in favour of the petitioner on execution of bank guarantee of Rs.50,000/- (rupees fifty thousand) 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 final result of the



pending L.P.A. aforesaid.

With the aforesaid observation, this 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

