

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.158 of 2017

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

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Bablu Kumar, son of Dhaneshwar Yadav, resident of Village-Janki Nagar, Police Station-Janki Nagar, District-Purnea.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Madhepura.
2. The District Magistrate, Madhepura.
3. The Superintendent of Police, Madhepura.
4. The Excise Officer, Madhepura.
5. The S.H.O. Murliganj Police Station, District-Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-05-2017

Heard the parties.

2. The petitioner is an accused in Official Complaint Case No.C-84 (7)/16 for alleged violation of the excise laws. The vehicle of the petitioner bearing Reg.No.BR11V-7732 (Scorpio) was seized in connection with the aforesaid case. By order dated 28.11.2016 passed in Confiscation Case No.16 of 2016, the respondent no.2, the District Magistrate, Madhepura has ordered for auction of the said vehicle.

3. Submission of the petitioner is that the question of law as to whether an executive authority can exercise judicial power



of confiscation or auction of the vehicle etc., which is exercisable only by a judicial authority, is under consideration before a Larger Bench in LPA No.1647 of 2015. Considering the aforesaid facts, in CWJC No.1791 of 2017 a Division Bench of this Court has ordered for release of the seized vehicle in favour of petitioner of that case.

4. Considering the aforesaid facts, let the referred Scorpio vehicle be released in favour of the petitioner after verification of the ownership of the vehicle of the petitioner by way of ad-interim custody on execution of surety bond of Rs.10,00,000/- (ten lacs) along with two sureties of the like amount with condition that the petitioner shall not dispose of the said vehicle without permission of the court and shall produce as and when required by this Court. This order shall be subject to result of the LPA aforesaid.

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

Arvind/-

(Birendra Kumar, J)

AFR/NAFR	
CAV DATE	
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