

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 788 of 2017

Arising out of P.S. Case No. - null Year - null Thana - null District - BUXAR

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Md. Shaheed, Son of Md. Saleem, Resident of Village - Amha, Ward No. 22, Sidhi,
Tehsil + P.S. Gapad Banas, District Sidhi (M.P.) Pin 486661

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Deptt.
2. The Collector, Buxar
3. The Superintendent of Police, Buxar
4. The S.H.O., Sonbarsha O.P., District - Buxar

.... Respondents

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Appearance :

For the Petitioner : Mr. Rahul Nath, Advocate

For the Respondents : Mr. Lalit Kishore, P.A.A.G.-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 24-07-2017

The petitioner claims to be owner of Bolero Jeep bearing registration no. MP-53TA/1251 which was seized in connection with Nawanager (Sonbarsha) P.S. Case No. 35 of 2017 registered for alleged violation of Sections 272 and 273 of the Indian Penal Code as well as Section 30(a) of the Bihar Prohibition and Excise Act, 2016. The vehicle was confiscated by the Collector, Buxar in Confiscation Case No. 102 of 2017 by order dated 01.06.2017, which is under challenge herein.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise power of a judicial authority to confiscate the vehicle is under sub-judice before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). Hence, till disposal of the L.P.A. aforesaid, further proceeding in pursuance of the impugned order be stayed and the vehicle be released as ad interim custody in favour of the petitioner as no



purpose is going to be served by its continued detention.

Learned counsel for the State-respondent submits that there is provision of appeal under Section 92(2) of the Bihar Prohibition and Excise Act, 2016 against the impugned order before the Commissioner, hence, the petitioner has got statutory remedy to ventilate his grievance.

Since the jurisdiction of the authority concerned (Executive Authority) to confiscate the vehicle is sub-judice before this Court, there is no reason to not grant the interim relief to the petitioner till adjudication of the aforesaid issue.

Hence, it is ordered that the operation of the impugned order shall remain stayed and shall be subject to the result of the L.P.A. aforesaid.

Let the referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond (not in the form of bank guarantee or cash) of Rs.8,00,000/- (rupees eight lakhs) along with two sureties of the like amount with condition that the petitioner shall not dispose of the same without permission of the Court and shall produce as and when required.

Accordingly, this application stands disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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