

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1181 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

- =====
1. Hira Singh S/o Late Chando Singh R/o Village - Imadpur, P.S. - Bihar, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Nalanda.
3. The Superintendent of Police, Nalanda.
4. The District Supply Officer, Nalanda.
5. The S.H.O. Sare, District - Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad, Advocate
For the Respondent/s : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date: 07-08-2017

The learned counsel for the petitioner is permitted to make necessary correction during course of the day.

The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 17.05.2017 passed in connection with Bihar Police Station Case No.265 of 2017 by the learned 7th Additional Sessions Judge-cum-Special Judge, Excise, Nalanda, Bihar Sharif, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized TVS Motorcycle, bearing registration No.BR-21M/8848, has been refused



on the ground that Section 60 of the Act bars the jurisdiction of the Courts.

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 Baleshwar 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.

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

In the circumstances, 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.50,000/- (Fifty Thousand), not in the form of cash/Bank Guarantee, along with two sureties of the like amount to the satisfaction of the authority concerned 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.



Accordingly, this application stands disposed of.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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