

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 315 of 2017

=====

Kumar Saurabh, Son of Late Anil Kumar, Resident of Village - Amba, Police Station - Amba, District - Aurangabad

.... Petitioner

Versus

1. The State of Bihar.
2. The Commissioner, Excise, Patna, Bihar.
3. The Collector, Aurangabad.
4. The Superintendent of Excise, Aurangabad.
5. The Officer-in-Charge of Police Station, Amba, District - Aurangabad.

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Ravi Shankar Sahay, Advocate
Mr. Ajay Nandan Sahay, Advocate

For the Respondents : Dr. Anil Kumar Upadhyaya, SC-II

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 27-04-2017

The petitioner has invoked the writ jurisdiction of this Court for quashing of Confiscation Case No. 174 of 2016 arising out of Amba Police Station Case No. 53 of 2016, a case registered for violation of the provisions of the Bihar Excise Act, 1915 as amended in the year 2016.

2. Learned counsel for the petitioner submits that the question whether the Executive Authorities can exercise the power of confiscation, being an adjudicatory and judicial power in nature, has been referred to a Larger Bench in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) which is still pending for consideration.

3. Considering the aforesaid circumstances, a Division Bench of this Court in C.W.J.C. No. 3120 of 2017 (**Bimlesh Kumar Rai vs. The State of Bihar & Ors.**) ordered ad interim release of the vehicle in



favour of the owner.

4. Considering the aforesaid factual position, let the Indigo car bearing registration no. BR-24S-6518 be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.5,00,000/- (rupees five lacs) with two sureties with condition that the petitioner shall not dispose of the said vehicle without permission of the Collector, Aurangabad who has passed the order in a confiscation proceeding and shall produce as and when required.

5. This order would be subject to the result of L.P.A. aforesaid.

6. With the aforesaid observation, this writ application stands allowed.

7. At the time of release of the vehicle, the petitioner would satisfy the learned court below about his ownership of the vehicle.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	04.05.2017
Transmission Date	04.05.2017

