

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1005 of 2017

=====

1. Rajesh Kumar @ Rajesh Mandal Son of Banrai Mandal @ Banarsi Mandal, Resident of Village- Pokhariya Bishanpur, P.S.- Nagar, District- Begusarai Petitioner

Versus

1. The State of Bihar Through The Principal Secretary, Excise.
2. The District Magistrate, Khagaria.
3. The Superintendent of Police , Khagaria.
4. The S.H.O. Khagaria P.S., District- Khagaria Respondent

=====

Appearance :

For the Petitioner : Mr. Ram Sumiran Rai, Adv.
For the Respondents : Mr. Kumar Manish (Sc5)

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 12-07-2017

Heard the parties.

The four wheeler of this petitioner bearing registration no. BR-9V-5415 was seized in connection with Khagaria Town P.S. Case No. 631 of 2016 for alleged violation of excise laws.

On the prayer of the petitioner, the learned Chief Judicial Magistrate, Khagaria, by order, dated 24.01.2017, directed interim release of the vehicle.

However, by order, dated 16.05.2017, passed in Confiscation (Excise) Case No. 1 of 2016-2017, the Collector, Khagaria, confiscated the said vehicle with reference as CIAZ car. The confiscation order is under challenge herein.

Submission of the learned counsel for the petitioner is that the power of executive authority to confiscate and auction the seized article, which is exercisable by judicial authority is under challenge before a Division Bench of this Court in L.P.A. No. 1647 of 2015 and considering the aforesaid order, different Division Benches of this Court have already allowed interim



release of the seized articles.

Finding substance in the submission, aforesaid, the operation of the order, dated 16.05.2017, passed by the Collector, Khagaria, in Confiscation Excise No. 1 of 2016-2017, shall remain stayed till disposal of L.P.A. No. 1647 of 2015 and shall be subject to the result of the L.P.A. aforesaid.

In the meantime, let the vehicle be released in favour of the petitioner by way of interim custody on execution of surety bond of Rs.8,00,000/- (rupees eight lakh) (not in the form of Bank guarantee) along with two sureties of the like amount each with the condition that the petitioner shall not dispose off the said vehicle without permission of the Court and shall produce as and when required by the Court below.

Accordingly, this application stands disposed off.

(Birendra Kumar, J)

SA/-

U	√	T	√
---	---	---	---

