IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1027 of 2017

Arising out of P.S. Case No. - null Year - null Thana - null District - EASTCHAMPARAN (MOTIHARI)

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Sikandra Kumar, Son of Sheo Ji Prasad, Resident of Village - Saraugadh, P.S. - Chiraiya, District - East Champaran

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise and Prohibition, Govt. of Bihar, Patna
2. The District Magistrate, East Champaran at Motihari
3. The Senior Superintendent of Police, East Champaran at Motihari
4. The Office-In-Charge of Ghorasahan, Jharokhar, Police Station, East Champaran at Motihari

.... Respondent/s

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Appearance :
For the Petitioner : Mr. Sangeet Deokuliar, Advocate
For the Respondents : Mr. Kumar Manish, S.C.V

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date: 24-07-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of Bolero vehicle bearing registration no. BR05PA-0718 which was seized in connection with Ghorasahan (Jharokhar) P.S. Case No. 226 of 2017 for alleged violation of the Excise Laws.

By the impugned order dated 26.05.2017, the learned Sub-Divisional Judicial Magistrate, Sikarahana at Dhaka, East Champaran refused to release the vehicle in favour of the petitioner for the reason that Section 60 of the Bihar Prohibition and Excise Act, 2016 bars jurisdiction of the court in such matter.

The aforesaid order is under challenge in this criminal

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writ petition.

The State-respondents, in their counter affidavit, have challenged the prayer on the ground that the order of the court below is consistent with the law applicable, hence, requires no interference.

Considering the fact that power of the Executive Authority to confiscate and auction the seized articles, which is exercisable by a judicial authority, is under challenge before a Larger Bench in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) as well as considering the fact that different Division Benches of this Court have ordered interim release of the seized vehicle in favour of the owner of the vehicle, let the vehicle in question be released in favour of the petitioner on execution of surety bond of Rs.6,00,000/- (rupees six lakhs) (not in the form of bank guarantee or cash) along with two sureties with condition that the petitioner shall not dispose of the same without permission of the Court and shall produce the vehicle as and when required by the court.

This order shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	26.07.2017
Transmission Date	26.07.2017

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