

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.619 of 2017

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1. M/s. Satyendra Agro Food Pvt. Ltd. Through Duly Appointed Attorney
Atanu Ghosh Son of Kartick Ghosh, Resident of 65, B.B. Street Bhadrakali,
Hooghly, 712232 Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of
Excise, Government of Bihar, Patna.
2. The District Magistrate, Banka, Bihar.
3. The Superintendent of Police, District of Banka, Bihar.
4. The Officer-in- Charge, P.S. Barahat, District- Banka, Bihar.
..... Respondents

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Appearance :

For the Petitioner : Mr. Dinesh Maharaj, Adv.
For the Respondents : Mr. Dr. Anil Kumar Upadhyay (Sc 2)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 12-07-2017

Heard the parties.

The truck of this petitioner bearing registration no.
WB 15B 3282 was seized in connection with Banka (Barahat) P.S.
Case No. 897 of 2016 for alleged violation of excise laws.

On the prayer of the petitioner, the learned Chief
Judicial Magistrate, Banka, by order, dated 21.12.2016, directed
interim release of the vehicle. The surety bond filed by the
petitioner was accepted on 03.01.2017

However, due to initiation of Confiscation (Excise)
Case No. 122 of 2016-2017 the Collector, Banka, vehicle was not
released.

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 aforesaid submission, aforesaid, the operation of the order passed by the Collector, Banka, in Confiscation Excise No. 122 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)

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