

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1096 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- JAMUI

- =====
1. Sikendra Yadav @ Sikendra Kumar @ Sikendra Kumar Yadav Son of Ram Bilash Yadav @ Mantun Yadav, Resident of Village-Baro, Police Station-Garhara, District-Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary, Department of Excise And Prohibition, Government of Bihar, Patna
2. The District Magistrate-cum-Collector, Jamui.
3. The Superintendent, of Police, Jamui.
4. The District Supply Officer, Jamui.
5. The Station House, Officer, Sono, Jamui.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Advocate
For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date: 11-09-2017

Heard learned counsel for the parties.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 15.04.2017 passed in connection with Sono Police Station Case No.131 of 2016 by the learned Additional Chief Judicial Magistrate-I, Jamui, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Scorpio, bearing registration No.BR-09M/2035, has been refused on the ground that Section 60 of the Act bars the jurisdiction of the Courts. Thereafter Collector, Jamui, has



initiated Confiscation Case No.24 of 2016.

5. Learned counsel for the petitioner submits that no purpose is going to be served by continued detention of the seized vehicle. He further submits that the power of the Executive Authority to confiscate the vehicle is under challenge in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** before a larger Bench of this Court on the ground that such power is exercisable only by a judicial authority. Hence, till disposal of the L.P.A. aforesaid interim custody may be ordered in favour of the petitioner.

6. The learned counsel for the State-respondent has opposed the prayer. However, does not dispute the aforesaid factual position of the pending issue in the L.P.A. aforesaid.

7. Finding substance in the submission of the learned counsel for the petitioner especially the fact that no purpose would be served by continued detention of the said vehicle, let referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.10,00,000/- (Ten Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount 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. Further



proceeding of Confiscation Case No.24 of 2016 shall remain stayed till disposal of the L.P.A. aforesaid. This order shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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