IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1114 of 2017

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1. Neelam Devi, wife of Late Ram Pujan Singh, Resident of Village and P.O.- Kanchanpur, P.S.- sasaram(m), District- Rohtas .... Petitioner

Versus

1. The State of Bihar, Through The Principal Secretary, Department of Excise And Prohibition, Government of Bihar, Patna
2. The District Magistrate, Aurangabad
3. The Superintendent of Police, Aurangabad
4. The S.H.O., Mali Police Station, District- Aurangabad

.... Respondents

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Appearance :
For the Petitioner : Mr. Rajani Kant Singh, Adv.
For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 21-08-2017 Heard the parties.

The petitioner has prayed for quashing the order, dated 30.05.2017, passed in connection with Excise Case No. 205 of 2016 arising out of Mali P.S. Case No. 37 of 2016 by the Collector, Aurangabad, whereby he has refused to release the Scorpio Jeep of the petitioner bearing registration no. BR-24P-0675, which was seized in connection with the aforesaid police station case number for alleged violation of Excise Laws.

Submission of the learned counsel for the petitioner is that the power of executive authority to confiscate the seized vehicle, which is exercisable by a judicial authority is subjudice before a larger Bench of this Court in **L.P.A. No. 1647 of 2015** (**Baleshwar Roy Vrs. The State of Bihar & Ors.**). The refusal to release the vehicle is mainly on the ground that the confiscation proceeding is pending. He, further, submits that no purpose is going to be served by continued detention of the vehicle in custody.

Considering the aforesaid pendency of issue, let the

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aforesaid Scorpio Jeep be released in favour of the petitioner by way of interim custody on execution of surety bond of Rs. 12,00,000/- (rupees twelve lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount each.

The petitioner shall file undertaking that he will not use the vehicle for any illegal purpose and will not dispose of the aforesaid vehicle without the permission of the Court.

The interim release shall be subject to the result of pending Letters Patent Appeal.

With the aforesaid observations, this application stands **disposed off**.

(Birendra Kumar, J)

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