

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.459 of 2017

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1. Anant Kumar Mishra Son of Krishna Kan Mishra, Resident of Village-Birban, O.P. Sonamani Gudam, Police Station-Kursa Kanta, District-Araria.
.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Patna
2. The Principal Secretary, Home Department, Government of Bihar, Patna
3. The District Magistrate, Araria
4. The Superintendent of Police, Araria
5. The S.H.O., Kursa Kanta, Police Station, District Araria
.... Respondents

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Appearance :

For the Petitioner : M/S Amarnath Jha & Gopal Kumar Jha, Advs.
For the Respondents : Mr. Suman Kumar Jha, A.C. to AAG III

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 18-07-2017 Heard the parties.

The petitioner is owner of motorcycle bearing registration no. BR-38B-5816, which was seized in connection with Kursakanta (Sonamani) P.S. Case No. 157 of 2016 for alleged violation of the excise laws.

The said vehicle has been confiscated by the District Magistrate, Araria, by order, dated 17.02.2017, passed in Confiscation Case No. 47 of 2017-2018.

In this writ application, the aforesaid order of confiscation is under challenged.

Submission of the learned counsel for the petitioner is that the issue as to whether the executive authority can exercise the judicial function of confiscation is pending before a larger Bench of this Court in L.P.A. No. 1647 of 2015.

Hence, during the pendency of the aforesaid adjudication, let further proceeding in pursuance of the impugned order be stayed and the vehicle, which is a perishable item be



released by way of ad interim custody in favour of the petitioner.

The State-respondent has no objection in interim release of the vehicle. However, submission is that some conditions should be imposed so that the petitioner may not dispose off the said vehicle to evade his responsibility.

Considering the aforesaid factual position that the matter is pending before a larger Bench of this Court in L.P.A. No. 1647 of 2015, let the operation of the impugned order be stayed till disposal of the aforesaid L.P.A. and, further, proceedings before the Court below shall be subject to the result of the L.P.A. aforesaid.

By way of interim measure, let the above referred vehicle be released in favour of the petitioner on execution of surety bond of Rs.50,000/- (rupees fifty thousand) (not in the form of draft or Bank guarantee) along with two sureties to the satisfaction of the Collector, Araria.

With the aforesaid observations, this application stands disposed off.

(Birendra Kumar, J)

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