

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1003 of 2017

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

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1. Dinesh Singh, S/o Late Baleshwar Singh, resident of Village Pabra, P.S. Birpur, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise Dept. Bihar, Patna.
2. The District Magistrate, Begusarai.
3. The Superintendent of Police, Begusarai.
4. The District Supply Officer, Begusarai.
5. The S.H.O. Muffasil (Singhoul), P.S. District Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Sumiran Rai, Advocate

For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 31-07-2017

Heard learned counsel for the petitioner and the State.

The Bolero vehicle of this petitioner bearing registration No.BR-9D-1856 was seized in connection with Muffasil (Singhoul) Police Station Case No.19 of 2017, a case registered for the alleged violation of the excise laws.

The petitioner approached before the learned Chief Judicial Magistrate, Begusarai, for ad interim release of the said vehicle and the prayer was refused on 23.02.2017 for the reason that Section 60 of the Bihar Prohibition and Excise Act, 2016, bars the jurisdiction of the Court to entertain application for release of the



vehicle.

Submission of the learned counsel for the petitioner is that the issue of competence of the Executive Officer to confiscate the vehicle is subjudice before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** In the circumstances, till pendency of the L.P.A. aforesaid operation of the impugned order be stayed and the vehicle in question be released in favour of the petitioner as no purpose is going to be served by its continued detention in police lockup.

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.

Considering the fact that authority of the executive to confiscate the seized vehicle under the Excise Act and under other provisions is under consideration before a larger Bench of this Court as referred above, the operation of the impugned order shall remain stayed till the result of the L.P.A. aforesaid.

Since no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.12,00,000/- (Twelve Lacs) (not in the form of cash/Bank Guarantee) along with two sureties of the like amount with condition



that the petitioner shall not dispose of the said vehicle without permission of the authority concerned and shall produce as and when required by the Court.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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