

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1037 of 2017

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1. Radhakant Prasad Son of Late Sampat Prasad, Resident of Village-
Mohammadpur, P.S.- Mohammadpur, District- Gopalganj
..... Petitioner

Versus

1. The State of Bihar Through The Principal Secretary, Department of
Excise, Government of Bihar, Patna
2. The District Magistrate, Gopalganj
3. The Superintendent of Police, Gopalganj
4. The Officer In-Charge Barauli Police, P.S.- Barauli, District-Gopalganj
..... Respondents

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Appearance :

For the Petitioner : Mr. Naresh Prasad, Adv.
For the Respondents : Mr. Kumar Manish, SC V

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 30-08-2017 Perused the report of the learned Court below in
pursuance of the order, dated 24.07.2017.

Heard the parties.

The present writ application has been preferred for
release of Bolero vehicle, bearing registration no. BR-05H-5626,
which was seized in connection with Barauli P.S. Case No. 79 of
2017, a case registered for violation of Excise Laws.

Submission of the learned counsel for the petitioner
is that the authority of the executive authority to confiscate and
auction the vehicle, which is a power exercisable by a judicial
authority is subjudice consideration before a larger Bench of this
Court in **L.P.A. No. 1647 of 2015 (Baleshwar Roy Vrs. The
State of Bihar & Ors.)**.

Hence, till disposal of the Letters Patent Appeal,
aforesaid, by way of interim custody the vehicle be released in
favour of the petitioner as no purpose is going to be served by
continued detention of the vehicle in custody.



Finding substance in the submission, aforesaid, let the aforesaid vehicle be released in favour of the petitioner by way of interim custody on execution of surety bond of Rs. 10,00,000/- (rupees ten lakh) (not in the form of bank guarantee or cash) along with two sureties of the like amount.

The petitioner shall file undertaking, that he will not use the vehicle for any illegal purpose, at the time of furnishing of the bond 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.

Accordingly, this writ application stands **disposed off**.

(Birendra Kumar, J)

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