

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1141 of 2017

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

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Ramanand Sharma, Son of Chandeshwar Sharma, Resident of Mohalla - Jamuna Nagar, Police Station - Sukhdeo Nagar, District - Ranchi (Jharkhand), PIN- 834001

.... Petitioner

Versus

1. The State of Bihar, through the Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Collector, Gaya.
3. The Excise Superintendent, Gaya.
4. The Inspector Excise Sherghati Anchal, District- Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rabindra Kumar Priyadarshi, Advocate

For the Respondents : Mr. Anil Kumar Sinha, G.A.1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-09-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of Wagonr Car bearing registration no. JHOIAT-8274 which was seized in connection with Excise Case No. 102 of 2007 for alleged violation of Section 30(a) of the Bihar Prohibition and Excise Act, 2016 and thereafter confiscation proceeding has been started.

The said order is under challenge in this criminal writ petition.

Submission of the learned counsel for the petitioner is that the competency of the Executive Authority to confiscate the vehicle is sub judice before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) on the ground that the said power is exercisable by a Judicial Authority. In the circumstances, the



operation of the impugned order be stayed till adjudication of the aforesaid issue and the vehicle be released in favour of the petitioner by way of ad interim custody as no purpose is going to be served by its continued detention.

Learned counsel for the State-respondents has no objection in interim release of the said vehicle. However, his submission is that appropriate bond be executed by the petitioner to secure production of the vehicle and the order of interim release should be subject to the result of the pending L.P.A.

Considering the submission of the parties, let further proceeding before the court below remain stayed till disposal of the L.P.A. aforesaid and the same shall be subject to the results of the L.P.A.

Let the vehicle be released in favour of the petitioner on execution of surety bond of Rs.7,00,000/- (rupees seven lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount with condition that the petitioner shall not dispose of the same without permission of the court and shall produce as and when required by the court.

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

(Birendra Kumar, J)

Kundan/-

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