

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1270 of 2017

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1. Ramhit Yadav Son of Late Suvalal Yadav, Resident of Village-
Salempur, P.S.- Bisfi, District- Madhubani Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department.
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, Madhubani.
4. The Superintendent of Police, Madhubani.
5. The Officer Incharge, Harlakhi Police Station, District- Madhubani.
.... Respondents

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Appearance :

For the Petitioner : Mr. Vijay Kumar, Adv.

For the Respondents : Mr. Kumar Manish (Sc-5)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 21-08-2017

Heard the parties.

The petitioner has invoked the writ jurisdiction of this Court for quashing the entire proceedings of Harlakhi P.S. Case No. 111 of 2017 as well as release of the seized mini bus, bearing registration no. BR-32F-4931.

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.

The learned counsel for the State-respondent raised objection that the petitioner has not approached the Court below for release of the vehicle and no confiscation proceeding has been initiated as yet.



To counter the aforesaid objection learned counsel for the petitioner submits that Section 60 of the Bihar Prohibition and Excise Act, 2016, bars the jurisdiction of the Court to release the vehicle, hence, no purpose would be served by approaching the Court below.

Considering the aforesaid pendency of issue, let the aforesaid vehicle be released in favour of the petitioner by way of interim custody on execution of surety bond of Rs.15,00,000/- (rupees fifteen 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.

Further proceeding in connection with the aforesaid case shall remained stayed till further orders.

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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