

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1444 of 2017

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

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Rajesh Kumar, Son of Surendra Sah, R/o Village - Rajopatti, Ward No. 18, P.S. -
Sitamarhi, District - Sitamarhi

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Prohibition and
Registration Department, Government of Bihar, Patna.
2. The Collector-Cum-District- Magistrate, Sitamarhi.
3. The Superintendent of Excise, Sitamarhi, District- Sitamarhi.
4. The Officer-In-Charge of Kanhauli P.S., District- Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Uday Kumar, Advocate

For the Respondents : Mr. Anil Kumar Sinha, GA-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 08-09-2017

Heard learned counsels for the parties.

This writ application is directed for setting aside the order
dated 02.06.2017 passed in Excise Confiscation Case No. 44 of 2017
whereby the Collector, Sitamarhi has confiscated the motorcycle (Bajaj
Pulsar) of the petitioner bearing registration no. BR30L5411 which was
seized in connection with Kanhauli P.S. Case No. 29 of 2017 registered for
violation of the Excise Laws.

Submission of the learned counsel for the petitioner is that
the issue whether the Executive Authority can exercise the power of
confiscation, which is exercisable by a Judicial Authority, is under sub
judice in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar
& Ors.**) and, hence, the operation of the impugned order be stayed and the



vehicle be released, by way of ad interim custody, in favour of the petitioner as no purpose is going to be served by its continued detention.

I find substance in the submission aforesaid, hence, proceeding of the confiscation case aforesaid including the operation of impugned order is directed to remain in abeyance till disposal of the above referred L.P.A. The proceeding shall be subject to the result of the L.P.A. aforesaid.

Since, no purpose is going to be served by keeping the motorcycle in seizure, let the same be released in favour of the petitioner, who claims to be owner thereof, by way of ad interim custody on execution of surety bond of Rs.50,000/- (rupees fifty thousand) (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 the vehicle as and when required by the Court.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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