

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1358 of 2017

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

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1. Dharmendra Kumar @ Bablu, Son of Vijay Prasad, Resident of Village- Mastanganj, P.S.- Akbarpur, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary Excise Dept.
2. The Collector/District Magistrate, Nawada.
3. The Superintendent of Police, Nawada.
4. The Police Inspector Anjani Kumar, S.H.O. Town, P.S.- Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Man Mohan Kumar, Advocate

For the Respondent/s : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 01-09-2017

Heard learned counsel for the petitioner and the State.

2. The Bolero vehicle of this petitioner bearing registration No.BR27C-8965 was seized in connection with Nawada Town P.S. Case No.490 of 2016, a case registered for the alleged violation of the Excise laws.

3. Submission of the learned counsel for the petitioner is that the Collector, Nawada, initiated Confiscation (Excise) Case No.200(M) of 2016. In this writ petition the initiation of confiscation proceeding is under challenge.

4. Further prayer of the petitioner is to allow interim release of the vehicle bearing registration No. BR27C-8965 of the



petitioner, which was seized in connection with the aforesaid case.

5. Submission of the learned counsel for the petitioner is that the jurisdiction 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 orders 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.

6. Learned counsel for the State-respondent opposed the prayer on the ground that the authorities are competent under the provisions of Bihar Prohibition and Excise Act, 2106, to confiscate. Hence, the petitioner cannot get interim relief of release of the vehicle.

7. Considering the fact that authority of the executive to confiscate the seized vehicle under the Excise Act and other provisions is under consideration before a larger Bench of this Court as referred above, the proceeding of the aforesaid confiscation case shall remain stated till further order and shall be subject to the result of L.P.A. aforesaid.

8. Since no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the



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 Rs10,00,000/- (Ten Lacs) not in the form of cash/Bank Guarantee along with two sureties of the like amount with condition that the petitioner would 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	AFR
CAV DATE	NA
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