

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1657 of 2017

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

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Raj Kumar Singh, Son of Raghubir Prasad Singh, Resident of Village Sahpur,
Police Station Sonbarsa Raj, District Saharsa

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna
2. The Excise Commissioner, Koshi Division, Saharsa
3. The District Magistrate-cum-Collector, Saharsa
4. The Superintendent Excise cum In-charge Officer, Revenue Department, Saharsa
5. The District Excise Officer, Saharsa
6. The S.H.O. of Sonbarsa Raj Police Station District Saharsa
7. The Excise Inspector, Saharsa
8. The Investigating Officer, of Sonbarsa Raj Police Station, Saharsa (Sonbarsa Raj Police Station Case No. 173 of 2016

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh, Advocate
For the Respondent/s : Mr. Vivek Prasad, G.P. 7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 04-10-2017

Heard learned counsels for the parties.

This writ application is directed against the order dated 11.07.2017 passed by the District Magistrate-cum-Collector, Saharsa in connection with Confiscation (Excise) Case No. 14 of 2017-18 vide Annexure-7 whereby the Collector has refused to release the seized motorcycle vehicle bearing registration no. WB66M-3148. The said vehicle was seized in connection with Sonbarsa Raj P.S. Case No. 173 of 2016 registered under Section 30 and 37(a)(c) of the Bihar Prohibition and Excise (Amendment) Act, 2016.



The Collector has confiscated the said vehicle.

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.**). In the circumstances, 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. 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.
Uploading Date	07.10.2017
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