

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1730 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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Bablu Kumar, Son of Rajo Yadav, R/o Village - Kapatiya, P.S. - Nalanda, District - Nalanda.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Excise Department Patna, Bihar.
2. District Magistrate, Nalanda
3. The Superintendent of Police, Nalanda at Bihar Sharif.
4. The Deputy Superintendent of Police, Bihar Sharif, Nalanda.
5. The S H O Police Station Nalanda.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjay Prasad, Advocate

For the Respondents : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 16-10-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of motorcycle vehicle bearing registration no. BR-21J-2695 which was seized in connection with Nalanda P.S. Case No. 100 of 2017 for alleged violation of the Bihar Excise Law.

By the impugned order dated 23.08.2017, the learned 6th Additional Sessions Judge-cum-Special Judge, Excise, Nalanda at Bihar Sharif refused to release the vehicle in favour of the petitioner for the reason that Section 60 of the Bihar Prohibition and Excise Act, 2016 bars jurisdiction of the court in such matter.

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

The State-respondents have challenged the prayer on the



ground that the order of the court below is consistent with the law applicable, hence, requires no interference.

Considering the fact that power of the Executive Authority to confiscate and auction the seized articles, which is exercisable by a judicial authority, is under challenge before a Larger Bench in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) as well as considering the fact that different Division Benches of this Court have ordered interim release of the seized vehicle in favour of the owner of the vehicle, let the vehicle in question be released in favour of the petitioner 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 each 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.

The release shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Kundan/-

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