

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1764 of 2017

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

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Amit Kumar Singh @ Babbal @ Amit Kumar, Son of Sri Bimlesh Prasad Singh,
Resident of Flat No. 102, Nageshwar Colony, Parmanand Path, Boring Road, P.S.
Kotwali, District Patna

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Excise,
Government of Bihar, Patna
2. District Magistrate, Muzaffarpur
3. Superintendent of Excise, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner : Mr. Ravi Ranjan, Advocate

For the Respondents : Mr. Vivek Prasad, G.P. 17

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-09-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of Nissan Micra
Active XL Car bearing registration no. BR01CD-1539 and Smart
Phone Model Samsung Note-5 bearing IMEI No.
352837/07/0216691/1 which was seized in connection with Excise
Case No. 38 of 2016-17 for alleged violation of Section 47(a), 54 and
57 of the Excise Act.

The petitioner filed a petition on 16.08.2016 before the
learned Magistrate, Muzaffarpur for release of the vehicle as well as
mobile but the same was dismissed on 05.09.2016. Thereafter, the
petitioner moved before the learned Sessions Judge, Muzaffarpur in
Cr. Rev. No. 117 of 2016 which was also dismissed on 28.02.2017



and thereafter petitioner received a notice from the Collector-cum-District Magistrate, Muzaffarpur that confiscation Case No. 18 of 2016-17 has been initiated and the petitioner was asked to file show cause as to why the same should not be confiscated.

Learned counsel for the petitioner filed a petition for release of his vehicle as well as mobile on 16.05.2017 in Confiscation Case No. 18 of 2016-17 but till date no order has been passed by the District Magistrate.

Submission of the learned counsel for the petitioner is that nothing was recovered from the car and 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.**), 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, 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



vehicle as well as Smart Phone Model Samsung Note-5 bearing IMEI No. 352837/07/0216691/1 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.8,00,000/- (rupees eight lakhs) (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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