

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1973 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

- =====
1. Bablu Alam @ Afroz son of late Mahmud Alam,
 2. Jhunnu Rai @ Jhunnu Ray son of Banti Ray,

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Excise Dept. Govt. of Bihar, Patna & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate
For the Respondent/s : Mr. Anil Kumar Sinha, GA

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsel for the petitioners and the State.

2. The petitioners have invoked the writ jurisdiction of this Court to quash the order dated 23.05.2017 passed in connection with Case No.C.R.M-47/2016-17, arising out of Bairiya P.S. Case No.171 of 2016, by the Collector, West Champaran at Bettiah, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioners to release the seized vehicles, i.e., motorcycles bearing registration Nos. BR-22X/5991 and BR-22Y/0177 respectively, has been refused and the referred vehicles have been confiscated.

3. Submission of the learned counsel for the petitioners 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 order be stayed and the vehicles, in question, be released in favour of the petitioners as no purpose is going to be served by its continued detention in police lockup.

4. 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 vehicles.

5. Considering the fact that authority of the executive to confiscate the seized vehicles under the Excise Act and other provisions is under consideration before a larger Bench of this Court, as referred above, the operation of the impugned order shall remain stayed and shall be subject to the result of L.P.A. aforesaid.

6. Commercial quantity of liquor was recovered from the vehicles of the petitioners.

7. Since no purpose is going to be served by continued detention of the vehicles, let the same be released in favour of the petitioners by way of ad interim custody on execution of **bank guarantee of Rs.50,000/- (Fifty Thousand)** for each vehicles to the satisfaction of the learned Court-below/authority concerned where the



case is pending, with condition that the petitioners would not dispose of the said vehicles without permission of the authority concerned and shall produce as and when required by the Court. The release shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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