

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Writ Jurisdiction Case No.1843 of 2017**

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

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Rohit Kumar Son of Binod Prasad, R/o Village- Murgichak, P.S.- Nalanda,  
District- Nalanda.

.... .... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Excise, Bihar, Patna.
2. The District Magistrate, Nalanda at Bihar Sharif.
3. Superintendent of Police, Nalanda at Bihar Sharif.
4. The Station House Officer, Nalanda.

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Anil Kumar No.1, Adv.

For the Respondent/s : Mr. Kumar Ravish, Adv.

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

ORAL JUDGMENT

**Date: 16-10-2017**

Heard learned counsel for the petitioner and the State.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 23.08.2017 passed in connection with Nalanda P.S. Case No.100 of 2017 by the 6<sup>th</sup> Additional Sessions Judge-cum-Special Judge (Excise), Nalanda at Bihar Sharif, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., motorcycle bearing registration No.BR-21M/4067, has been refused on the ground that Section 60 of the Act bars the jurisdiction of the Courts.

3. Submission of the learned counsel for the petitioner is that no purpose would be served by continued detention of the vehicle; rather it would get rotten. Moreover, the jurisdiction of the



Executive Authority to exercise judicial power of confiscation and sale is subjudice before a larger Bench of this Court in **L.P.A. No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** Hence, till disposal of the L.P.A. aforesaid, the vehicle, in question, be released by way of interim custody in favour of the petitioner.

4. Since no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the petitioner or his wife as the said motorcycle is in the name of the wife of the petitioner by way of ad interim custody on execution of surety bond of Rs.50,000/- (Fifty Thousand), not in the form of cash/Bank Guarantee, along with two sureties of the like amount to the satisfaction of the learned Court-below/authority concerned where the case is pending, 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.

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

**(Birendra Kumar, J)**

Mkr./-

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| AFR/NAFR          | NAFR       |
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