

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1839 of 2017

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

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1. Ajit Choudhary S/o- Rameshwar Choudhary, resident of Village- Khedarpura,
P.S.- Fatehpur, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Deptt., Patna.
2. The Commission Magadh Range, Gaya.
3. The District Magistrate, Gaya.
4. The Superintendent of Police, Gaya.
5. The Deputy Superintendent of Police, Gaya.
6. The Officer-in- Charge Fatehpur, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Onkar Nath, Advocate

For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 17-10-2017

Heard learned counsel for the parties.

2. The Auto of this petitioner bearing registration
No.BR-02AA/4540 was seized in connection with Fatehpur P.S.
Case No.53 of 2017 for alleged violation of the Excise law.

3. The petitioner moved the learned Special Excise
Judge, Gaya, for release of the vehicle and the prayer was refused
on 18.08.2017 mainly for the reason that Section 60 of the Bihar
Prohibition and Excise Act, 2016, bars jurisdiction of the Court to
entertain release of the seized articles.

4. Learned counsel for the petitioner submits that no
purpose is going to be served by continued detention of the seized
vehicle. He further submits that the power of the Executive
Authority to confiscate the vehicle is under challenge in **LPA**



No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.

before a larger Bench of this Court on the ground that such power is exercisable only by a judicial authority. Hence, till disposal of the L.P.A. aforesaid interim custody may be ordered in favour of the petitioner.

5. Finding substance in the submission of the learned counsel for the petitioner especially the fact that no purpose would be served by continued detention of the said vehicle, let referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.1,00,000/- (One Lac), 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. This order shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.10.2017
Transmission Date	19.10.2017

