

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1937 of 2017

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

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1. Priyambeer Kumar son of Shyam Kishore Rai, R/o. Harpur, P.S. Barauni (O.P. Refinary), Begusarai.
 2. Rampratap Singh son of late Ram Ujgar Singh, R/o. Singhpur, P.S. Nayagawn, Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar, Through The Excise Commissioner, Department of Excise, Bihar, Patna
2. The Collector, Begusarai
3. The Superintendent of Police, Begusarai
4. The Officer-in-Charge, Barauni, P.S. District- Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate

For the Respondent/s : Mr. Lalit Kishore, AG

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 08-11-2017

Heard learned counsel for the petitioner and the State.

2. Commercial quantity of foreign liquor was recovered from the two motorcycles of the petitioners bearing registration Nos.BR-09V-6255 and BR09F-8445 respectively, and Barauni (Refinary) P.S. Case No.10 of 2017 was registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016. Subsequently, Confiscation Case No.19 of 2017 was initiated for confiscation of the aforesaid motorcycles and by order dated 20.06.2017 contained in Annexure-6 the said vehicles were confiscated.



3. The present writ application has been filed challenging the confiscation order on the ground that pre-trial confiscation is bad-in-law and the aforesaid issue is under consideration before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** Hence, till adjudication of the aforesaid issue the operation of the impugned order be stayed and interim release of the vehicles be ordered as no purpose is going to be served by its continued detention in police lockup.

4. After hearing the parties and finding substance in the submission aforesaid regarding pendency of the issue before a larger Bench as to whether the executive authority can confiscate the seized vehicle before proof of guilt, the operation of the impugned order is stayed till adjudication of the aforesaid issue in the L.P.A. aforesaid and shall be subject to the result of the L.P.A. aforesaid.

5. Since commercial quantity of liquor was recovered from the vehicles of the petitioners, 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 motorcycle 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.



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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.11.2017
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