

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 2244 of 2017

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

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Niraj Kumar, S/o Late Gultetan Ram, resident of Sampatchak Bazar, P.S. -
Gopalpur, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Patna.
2. The Collector, Patna.
3. The Supply Inspector Rationing, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjaya Nath Tiwari, Advocate

For the Respondents : Mr. S. Raza Ahmad, AAG-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 22-11-2017

Heard learned counsel for the parties.

2. The petitioner claims to be owner of the Piaggio APE
Tempo bearing registration no. BR01GE-3042 which was seized in
connection with Malsalami P.S. Case No. 257 of 2016 registered under
Sections 420, 120(b)/34 of the Indian Penal Code and Section 7 of the
Essential Commodities Act as the same was standing in the flour mill of
one Ravi Shankar @ Sudhani Ji.

3. The record reveals that Confiscation Case No. 31 of
2016-17 has already been initiated for confiscation of the said vehicle.

4. By the impugned order dated 06.03.2017, the learned
Sub-Divisional Judicial Magistrate, Patna City refused to release the
aforesaid vehicle in favour of the petitioner on the ground that a
confiscation case is pending before the Collector, Patna.

5. Submission of the learned counsel for the petitioner is



that no purpose would be served by continued detention of the vehicle till completion of the criminal trial because pre-trial confiscation of the seized article is challenged in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) before a Larger Bench of this Court.

6. After hearing the parties, finding substance in the submission aforesaid, let the aforesaid vehicle be released in favour of the petitioner on execution of surety bond of Rs.1,00,000/- (rupees one lakh) (not in the form of bank guarantee or cash) 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 or put the same under encumbrance without permission of the authority concerned and shall produce as and when required by the Court.

7. The proceeding of the pending confiscation case shall remain in abeyance till disposal of the L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) and the same shall be subject to the final result of the L.P.A. aforesaid.

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

(**Birendra Kumar, J**)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	25.11.2017
Transmission Date	25.11.2017

