

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2308 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Chotu Kumar Singh @ Ravi Kumar Singh @ Chotu Kumar S/o Sri Ram Ashok Singh @ Ram Shlok Singh, R/o Village- Bhakurahya, P.O.- Saraiya , P.S.- Patahi, District- East Champaran, Motihari.

.... Petitioner/s

Versus

1. The State of Bihar Through The Director General of Police, Bihar, Patna,
2. The Director General of Police, Bihar, Patna.
3. The Suprintendent of Police, Motihari District East Champaran, Motihari.
4. The District Magistrate/Collector Motihari District- East Champaran , Motihari.
5. The Excise Superintendent of Motihari District East Champaran, Motihari,
6. The Officer In Charge of Ghorasahan, District- East Champaran, Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate

For the Respondent/s : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 28-11-2017

Heard learned counsel for the parties.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 14.02.2017 passed by learned Additional Sessions Judge-IX, East Champaran, Motihari, in Cr. Revision Case No.13 of 2017/1 of 2017 by which learned Additional Sessions Judge has been pleased to rejected the revision application and confirmed the order dated 06.12.2016 passed by learned Sub-Divisional Judicial Magistrate, Sikrahana at Dhaka in connection with Ghorashahan Police Station Case No.406 of 2016, under the



Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Hero Passion Pro Motorcycle, bearing registration No.BR-05T/3852, was 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. Learned counsel for the State-respondent opposed the prayer. However, does not dispute the factual position of pendency of the L.P.A. aforesaid.

5. In the circumstances, let the above referred vehicle be released by way of ad interim custody in favour of the petitioner on execution of **bank guarantee of Rs.50,000/- (Fifty Thousand) or sale deed of immovable property of equal value standing in the name of the petitioner** 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. The release shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.11.2017
Transmission Date	30.11.2017

