

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 2704 of 2017

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

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Md. Mahfooz Alam @ Md. Mahfooz @ Mahfooz Alam, Son of Late Shekh Sahadat Hussain, Resident of Village - Sagaradina, P.S. - Bihariganj, District - Madhepur

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supply, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Purnea.
3. Sub Divisional Officer, Purnea.
4. District Transport Officer, Patna.
5. Block Supply Officer, B. Kothi, Purnea.
6. Officer In charge, B. Kothi, Purnea.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ram Prawesh Kumar, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-12-2017

Heard learned counsel for the parties.

2. This writ application has been filed for release of the vehicle bearing registration no. BR43A-4317 which was seized in connection with Barhara P.S. Case No. 209 of 2016. Further prayer is for quashing the order dated 04.04.2017 passed in the aforesaid case by the learned Sub-Divisional Judicial Magistrate, Purnea whereby prayer for interim release was refused on the ground that there is no jurisdiction to release the aforesaid vehicle as the matter has been recommended for confiscation before the Collector, Purnea.

3. Since constitutional validity of Sections 56, 57, 58 and 60 of the Bihar Prohibition and Excise Act, 2016 is under



challenge and the matter is pending before a Larger Bench in Cr.W.J.C. No. 2446 of 2017 (**Rahul Kumar @ Rahul Vs. The State of Bihar & Ors.**), let the aforesaid vehicle in question be released in favour of the petitioner as ad interim custody on execution of surety bond of Rs.2,50,000/- (rupees two lakhs and fifty thousand) (not in the form of bank guarantee or cash) 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 or put the same under encumbrance without permission of the authority concerned and shall produce as and when required by the Court.

4. The operation of confiscation proceeding, if any, pending or order of confiscation, if any, found in respect of the said vehicle shall remain in abeyance till disposal of the pending Cr.W.J.C. and the same shall be subject to the final result of the Cr.W.J.C. aforesaid.

5. With the aforesaid observation and direction, this writ application, accordingly, disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	22.12.2017
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