

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 811 of 2017

Arising out of P.S. Case No. - null Year - null Thana - null District - SEKHPURA

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Shiv Balak Sharma @ Shivalak Sharma, Son of Late Rameshwar Sharma, Resident
of Mohalla - Jamalpur, Sheikhpura, P.S. and District - Sheikhpura

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, Sheikhpura
3. The Superintendent of police, Sheikhpura
4. The Sub-Inspector, Excise Sheikhpura, District - Sheikhpura

.... Respondents

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Appearance :

For the Petitioner : Mr. Pankaj Kumar, Advocate
Mr. Niranjan Kumar, Advocate

For the Respondents : Mr. Anil Kumar Sinha, G.A.- 1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-07-2017

Heard learned counsels for the parties.

The petitioner claims to be owner of T.V.S. Jupiter
Scutee bearing registration no. BHR-52A-1580 which was seized in
connection with Case No. 136C-2 of 2016 for alleged violation of the
Excise Laws.

By the impugned order dated 23.01.2017, the learned
Chief Judicial Magistrate, Sheikhpura refused to release the vehicle in
favour of the petitioner for the reason that Section 60 of the Bihar
Prohibition and Excise Act, 2016 bars jurisdiction of the court in such
matter.

The said order is under challenge in this criminal writ
petition.

The State-respondents, in their counter affidavit, have



challenged the prayer on the ground that the order of the court below is consistent with the law applicable, hence, requires no interference.

Considering the fact that power of the Executive Authority to confiscate and auction the seized articles, which is exercisable by a judicial authority is under challenge before a Larger Bench in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) as well as considering the fact that different Division Benches of this Court have ordered interim release of the seized vehicle in favour of the owner of the vehicle, let the vehicle in question be released in favour of the petitioner on execution of surety bond of Rs.40,000/- (rupees forty thousand) along with two sureties with condition that the petitioner shall not dispose of the same without permission of the Court and shall produce the vehicle as and when required by the court.

This order shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	13.07.2017
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