

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1028 of 2017

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

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1. Nagendra Das Son of Gunilal Das, Resident of Village- Matiyar Khurd, P.S.- Sahiyara, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary Excise Department, Bihar, Patna.
2. The Senior Superintendent of Excise Police, Sitamarhi.
3. The Excise Inspector, Pupri-Anchal, Sitamarhi,
4. The Excise- Sub- Inspector, Pupri-Anchal, Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-09-2017

Heard learned counsel for the parties.

2. The Tempo Bajaj Auto vehicle of this petitioner bearing registration No.BR-30P/3276 was seized in connection with Case No.C-2-342 of 2016 for alleged violation of the Excise laws.

3. Learned counsel for the petitioner submits that no purpose is going to be served by continued detention of the seized vehicle. He further submits that the power of the Executive Authority to confiscate the vehicle is under challenge in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** before a larger Bench of this Court on the ground that such power is exercisable only by a judicial authority. Hence, till disposal of the



L.P.A. aforesaid the interim custody may be ordered in favour of the petitioner.

4. The learned counsel for the State-respondent has opposed the prayer. However, does not dispute the aforesaid factual position of the pending issue in the L.P.A. aforesaid.

5. Finding substance in the submission of the learned counsel for the petitioner especially the fact that no purpose would be served by continued detention of the said vehicle, let referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.1,00,000/- (One Lac), not in the form of cash/Bank Guarantee, along with two sureties of the like amount each to the satisfaction of the concerned authority 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. This order shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	
CAV DATE	NA
Uploading Date	
Transmission Date	

