

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1150 of 2017

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

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1. Md. Rayaj @ Md. Sonu Son of Neyaj @ Ejaj Ahmad, Resident of Village-
Garhul Sharif, P.S.- Nonpur, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Excise Department, Bihar, Patna.
2. The Collector-Cum-District Magistrate, Sitamarhi.
3. The Superintendent of Excise, Sitamarhi.
4. The Excise Inspector , Purpri, Sitamarhi.
5. The Sub-Inspector, Excise, Pupri-Anchal, Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Virendra Kumar, Advocate

For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 04-08-2017

Heard learned counsel for the petitioner and the State.

The Passion-Pro motorcycle of this petitioner, bearing registration No.BR-30H-8071, was seized in connection with G.O. Case No.77 of 2016, under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Subsequently Confiscation Case No.37 of 2017 was initiated by the Collector, Sitamarhi, for confiscation of the referred motorcycle.

Submission of the petitioner is that the issue as to whether the Collector has authority to confiscate and auction the



vehicle, which is a judicial function, is subjudice before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** and considering the pendency of the aforesaid LPA in other matters different Division Benches of this Court have ordered for interim release of the vehicle in favour of the owner.

Learned counsel for the respondent has no objection in interim release of the motorcycle in favour of the petitioner. However, his submission is that release would be subject to the result of the L.P.A. and the pending confiscation proceeding.

Considering the facts and circumstances above, let the aforesaid motorcycle be released in favour of the petitioner after verification of the ownership of the vehicle of the petitioner by way of ad-interim custody on execution of surety bond of Rs.50,000/- (Fifty Thousand), not in the form of cash/Bank Guarantee, along with two sureties of the like amount to the satisfaction of the authority concerned with condition that the petitioner shall not dispose of the said vehicle without permission of the authority concerned and shall produce as and when required by the Court. Further proceeding of Confiscation (Excise) Case No.37 of 2017, arising out of G.O. Case No.77 of 2016, shall remain stayed till disposal of the L.P.A aforesaid and shall be subject to the result of the L.P.A. aforesaid.

The petitioner shall file undertaking that he will not use



the motorcycle for such purpose in future.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.08.2017
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