

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2568 of 2017

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

=====

1. Anikesh Kumar Das, Son of Shiv Narayan Das, Resident of Village-Pithaghat, P.S.- Garkha, District- Saran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Saran.
3. The Senior Superintendent of Police, Saran.
4. The S.H.O, Garkha Police Station District- Saran.
5. The Investigation Officer, Garkha, P.S. Case No. 215/16, P.S. Garkha, Saran.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate

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

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-12-2017

Heard learned counsel for the petitioner and the State.

2. This writ application has been preferred for quashing the order dated 03.07.2017 passed by the learned Additional Sessions Judge-VI, Saran in connection with Garkha P.S. Case No.215 of 2016, under the Bihar Prohibition and Excise Act, 2016, whereby the learned Additional Sessions Judge-VI, Saran, has refused the prayer of the petitioner to release the vehicle of the petitioner bearing registration No.BR-31L/7927. The prayer has been refused mainly on the ground that the Act bars jurisdiction of the Courts in such matter.



3. The constitutional validity of the provisions of Sections 56, 57, 58 and 60 of the Bihar Prohibition and Excise Act, 2016 is under challenge in **Cr. W.J.C. No. 2446 of 2017 (Rahul Kumar @ Rahul V. The State of Bihar and others)** and the matter is pending before the larger Bench of this Court.

4. Hence, the respondents are directed to release the vehicle, in question, in favour of the petitioner, by way of 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 learned Court-below/authority concerned where the case is pending, with condition that the petitioner would not dispose of the said machine 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 Cr.W.J.C. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.12.2017
Transmission Date	15.12.2017

