

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1043 of 2017

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Kallu Prasad Kewat, son of late Parasnath Kewat, resident of village Naubatpur, P.S. Saiyadraja, district Chandauli, Uttar Pradesh

.... Petitioner

Versus

1. The State of Bihar, Through The Collector-cum-district Magistrate, Kaimur At Bhabhua
 2. The Superintendent of Police, Kaimur at Bhabhua
 3. The Superintendent of Excise Department, Kaimur at Bhabhua
 4. The Sub Inspector of Excise Department, Bhabua Block, Kaimur at Bhabhua
- Respondents
- =====

Appearance :

For the Petitioner : Mr. Tribhuwan Narayan, Adv.

For the Respondents : Mr. A.K. Sinha, GA I with
Mr. Pawan Kumar, AC to GA I

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 02-08-2017 The petitioner has challenged the order, dated 11.05.2017, passed in Confiscation Case No. 181 of 2016-2017. The confiscation matter arises out of Excise Case No. 71 of 2017, a case registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, whereunder the tempo of the petitioner bearing registration no. UP-67T-5468 was seized.

Prayer is for stay of further proceeding of the confiscation matter and interim release of the tempo, on the ground that competency of the executive authority to confiscate and auction the seized vehicle is under consideration before a larger Bench of this Court L.P.A. No. 1647 of 2015 (**Baleshwar Roy Vrs. The State of Bihar & Ors.**) and till disposal of Letters Patent Appeal, aforesaid, further proceeding of Vehicle Confiscation Case No. 181 of 2016-2017 pending before the Collector-cum-District Magistrate, Kaimur at Bhabhua, may be stayed and the vehicle may be released by way of ad interim custody in favour of the petitioner.



After hearing the parties, I am of the view that no purpose would be served by continued detention of the said vehicle till adjudication of the aforesaid issue, pending before the larger Bench of this Court.

Hence, it is directed that the operation of the impugned order as well as subsequent proceeding of Confiscation Case No. 181 of 2016-2017 shall remain stayed till disposal of above Letters Patent Appeal.

In the meantime, by way of ad interim custody, let the tempo, referred above, be released in favour of the petitioner on execution of surety bond of Rs. 1,00,000/- (rupees one lakh) (not in the form of bank guarantee or cash) along with two sureties of the like amount each to the satisfaction of the Collector-cum-District Magistrate, Kaimur at Bhabhua.

The interim release shall be subject to the result of pending Letters Patent Appeal.

With the aforesaid observations, this application stands **disposed off**.

(Birendra Kumar, J)

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