

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1252 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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1. Gundel Kewat @ Gundela Kewat, Son of Late Rewat Kewat, resident of Village- Madipur, P.S.- Sarmera, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the District Collector, Nalanda at Bihar Sharif.
2. The District Collector, Nalanda at Bihar Sharif.
3. The Superintendent of Police, Nalanda at Bihar Sharif.
4. The Deputy Superintendent of Police, Bihar Sharif, Nalanda.
5. The SHO Police Station Bind, Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Prasad, Advocate

For the Respondent/s : Md. Nasrul Huda Khan, SC-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 12-09-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 02.07.2017 passed in connection with Confiscation (Excise) Case No.36 of 2017, arising out of Sarmera P.S. Case No.150 of 2016, by the Collector, Nalanda, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle, i.e., Apache motorcycle bearing registration No.BR-21L/7423, has been refused and the referred vehicle has been confiscated.

Submission of the learned counsel for the petitioner is



that the jurisdiction of the Executive Officer to confiscate the vehicle is subjudice before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** In the circumstances, till pendency of the L.P.A. aforesaid operation of the impugned order be stayed and the vehicle in question be released in favour of the petitioner as no purpose is going to be served by its continued detention in police lockup.

Learned counsel for the State-respondent opposed the prayer on the ground that the authorities are competent under the provisions of Bihar Prohibition and Excise Act, 2106, to confiscate. Hence, the petitioner cannot get interim relief of release of the vehicle.

Considering the fact that authority of the executive to confiscate the seized vehicle under the Excise Act and other provisions is under consideration before a larger Bench of this Court as referred above, the operation of the impugned order shall remain stayed till further order and shall be subject to the result of L.P.A. aforesaid.

Since no purpose is going to be served by continued detention of the vehicle, let the same be released in favour of the petitioner or his wife as the said motorcycle is in the name of the wife 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 Collector, Nalanda, with condition that the petitioner or his wife would not dispose of the said vehicle without permission of the authority concerned and shall produce as and when required by the Court.

With the aforesaid observation, this writ application stands disposed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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