

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1437 of 2017

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

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1. Sunil Singh, Son of Late Shiv Shankar Singh @ Shiv Kumar Singh, Resident of Village- Naragda, P.S.- Barahara, District- Bhojpur at Ara.

.... Petitioner/s

Versus

1. The State of Bihar, Through Secretary Excise Department, Government of Bihar, Patna.
2. The Collector, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Officer Incharge, Mohamdapur, Police Station, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Pandey, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-09-2017

Heard learned counsel for the petitioner and the State.

2. Petitioner is owner of the truck bearing registration No.JH-02J/9401, which was seized in connection with Mohammadpur P.S. Case No.20 of 2017. The same was carrying empty bottles to be used for packing of wine. The same was being carried from Kolkata to Nepal through valid consignment challan dated 03.05.2017.

3. Submission is that since there was no liquor on the truck its seizure under the provisions of Bihar Prohibition and Excise Act is illegal one. Moreover, the authority of the executive to confiscate the vehicle, which power is exercisable by a judicial authority is under challenge before a larger Bench of this Court in



LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors. Hence, till adjudication of the aforesaid issue interim release of the truck as well as the bottle and DI Pipes loaded on the truck be released in favour of the petitioner.

4. There is no dispute that the aforesaid items were not an objectionable nor they were being used in the State of Bihar.

5. In the circumstances, it is directed that the truck as well as the loaded items will be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.30,00,000/- (Thirty Lacs), 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 would not dispose of the said vehicle without permission of the authority concerned and shall produce as and when required by the Court. The interim release would be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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