

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1685 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

- =====
1. Indrasan Chaudhary
 2. Daroga Chaudhary,
Both sons of late Shankar Chaudhary, resident of village- Khajuriya, P.S. Ram
Nagar, West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The Excise Commissioner, Bihar, Patna
3. The Collector, West Champaran at Bettiah
4. The Excise Superintendent, West Champaran at Bettiah
5. The Officer-in-Charge, Ram Nagar Police Station, West Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh No.1, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, GA-1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 11-10-2017

Heard learned counsel for the parties.

2. The Tractor and Trailor of the petitioners bearing registration No.BR-22/5946 and registration No.BR-22G/1043 were seized in connection with Ramnagar P.S. Case No.88 of 2017 for alleged violation of the Bihar Excise law.

3. The petitioner moved the learned Special Judge, Excise, Bettiah, West Champaran, for release of the vehicle and the prayer was refused on 30.06.2017 mainly for the reason that Section 60 of the Bihar Prohibition and Excise Act, 2016, bars jurisdiction of the Court to entertain release of the seized articles. The Collector, West Champaran at Bettiah, has started confiscation



proceeding in Confiscation (Excise) Case No.189 of 2016-17.

4. Learned counsel for the petitioner submits that no purpose is going to be served by continued detention of the seized vehicle. He further submits that the power of the Executive Authority to confiscate the vehicle is under challenge in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** before a larger Bench of this Court on the ground that such power is exercisable only by a judicial authority. Hence, till disposal of the L.P.A. aforesaid interim custody may be ordered in favour of the petitioner.

5. The learned counsel for the State-respondent has opposed the prayer. However, does not dispute the aforesaid factual position of the pending issue in the L.P.A. aforesaid.

6. Commercial quantity of liquor, which is prohibited in the State of Bihar, was recovered from the vehicle of the petitioners.

6. Hence, let the aforesaid vehicle be released, by way of interim custody, in favour of the petitioners on execution of the bank guarantee of Rs.5,00,000/- (Five Lacs) to the satisfaction of the Collector, West Champaran, Bettiah.

7. With the aforesaid observation, this writ application stands disposed of. The release shall be subject to the result of the L.P.A. No.1647 of 2015 (**Baleshwar Roy V. The State of Bihar &**



ors.). The proceeding of Confiscation (Excise) Case No.189 of 2016-17 shall remain stayed till disposal of the L.P.A. aforesaid.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.10.2017
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