

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1394 of 2017

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

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Chandrabhusan Pandey, Son of Late Upendra Pandey, R/o Village - Bharkuiyan,
P.S. - Majha Garh, District - Gopalganj

.... ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Bihar.
2. The Excise Commissioner Bihar, Patna.
3. The District Magistrate/Collector, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Excise Superintendent , Gopalganj.
6. The Sub-Divisional Officer, Gopalganj.

.... Respondents

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Appearance :

For the Petitioner : Mr. Milind Kumar Mishra, Advocate

For the Respondents : Mr. A.K. Sinha, G.A.1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 07-09-2017

Heard learned counsels for the parties.

This writ application is directed against the order dated 28.03.2017 passed by the Collector, Gopalganj in connection with Confiscation (Excise) Case No. 66 of 2017 vide Annexure-6 whereby the Collector has refused to release the seized motorcycle bearing registration no. BR28J8907. The said vehicle was seized in connection with Vishambharpur P.S. Case No. 60 of 2016 registered under Sections 272, 273, 420/34 of the Indian Penal Code and Sections 30(a), 37(a) 37(b) of the Bihar Prohibition and Excise (Amendment) Act, 2016. The Collector has confiscated the said vehicle.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise the power of confiscation, which is exercisable by a Judicial Authority, is under sub



judice in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**), hence, the operation of the impugned order be stayed and the vehicle be released, by way of ad interim custody, in favour of the petitioner as no purpose is going to be served by its continued detention.

I find substance in the submission aforesaid, proceeding of the confiscation case aforesaid including the operation of impugned order is directed to remain in abeyance till disposal of the above referred L.P.A. The proceeding shall be subject to the result of the L.P.A. aforesaid.

Since, no purpose is going to be served by keeping the motorcycle in seizure, let the same be released in favour of the petitioner, who claims to be owner, thereof, by way of ad interim custody on execution of surety bond of Rs.50,000/- (rupees fifty thousand) (not in the form of bank guarantee or cash) along with two sureties of the like amount with condition that the petitioner shall not dispose of the same without permission of the Court and shall produce the vehicle as and when required by the Court.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	11.09.2017
Transmission Date	11.09.2017

