

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Writ Jurisdiction Case No.1823 of 2017**

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

- =====
1. Janardan Bhagat, Son of Baidhnath Bhagat, Resident of Ward No. 11, Alam Nagar Uttari, Police Station- Alam Nagar, District- Madhepura.

.... .... Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate- cum-Collector, Madhepura.
3. The Superintendent of Police, Madhepura.
4. The Sub Divisional Police Officer, Madhepura.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Manoj Kumar, Advocate

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

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

**ORAL JUDGMENT**

**Date: 08-11-2017**

Heard learned counsel for the parties.

2. Three liters of country-made liquor was recovered from the truck of the petitioner, which was seized in connection with Udakishunganj P.S. Case No.94 of 2017. Subsequent thereto the said truck bearing Registration No.BR-11U 6032 was confiscated along with grains (maize) loaded on the said truck by the impugned order dated 11.08.2017 in Confiscation Case No.55 of 2017.

3. Submission of the learned counsel for the petitioner is that the authority of the executive to confiscate before proof of the guilt 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, the operation of the impugned order be stayed and the truck along with the loaded maize be released in favour of the petitioner.

4. Finding substance in the submission of the learned counsel for the petitioner, operation of the impugned order is ordered to be stayed and shall be subject to the result of the pending L.P.A. The seized truck, referred above, along with the maize be released in favour of the petitioner on execution of surety bond of Rs.20,00000/- (Twenty Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount to the satisfaction of the learned Court-below/authority concerned where the case is pending, 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.

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

**(Birendra Kumar, J)**

Mkr./-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 10.11.2017 |
| Transmission Date | 10.11.2017 |

