

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2112 of 2017

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

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Sri Ram Pandit, Son of Sri Bhola Pandit, R/o Village - Mallupur, P.S. - Pachrukhi,
District - Siwan

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Superintendent of Excise Department, Siwan.
4. The Officer in Charge-Andar Police Station, Siwan.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ajay Kumar Tiwary, Advocate

For the Respondents : Mr. Anil Kumar Sinha, G.A.1

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsels for the parties.

This writ application has been filed for quashing the notice dated 09.09.2017 issued vide letter no. 2662 in connection with excise confiscation case arising out of Siwan (Chainpur O.P.) P.S. Case No. 122 of 2017 whereby the Collector, Siwan has asked the petitioner to explain as to why his bullet motorcycle bearing Chesis No. ME3U3S5C0HB266147 and Engine No. U3S5COH-B266147 be not confiscated.

Learned counsel for the petitioner submits that he has filed a petition before the learned court below for release of the vehicle but the same is pending.

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.). In the circumstance, 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 bullet 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.1,00,000/- (rupees one lakh) (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	17.11.2017
Transmission Date	17.11.2017

