

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2353 of 2017

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

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1. Ganesh Yadav, son of Late Saryug Prasad Yadav, resident of Village-
Atkhaira Gadhiya, P.S.- Saur Bazar, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Madhepura.
2. The District Magistrate-cum-Collector, Madhepura.
3. The Superintendent of Police, Madhepura.
4. The Excise Superintendent, Madhepura.
5. The Station House Officer, Gamharia Police Station, District- Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-12-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 13.06.2017 passed in connection with (Excise Act) Confiscation Case No.7 of 2017 by the Collector, Madhepura, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to release the seized vehicle bearing registration No.BR-11S/9428, which was seized in connection with Gamharia P.S. Case No.123 of 2016, has been refused and the referred vehicle has been confiscated.

3. The constitutional validity of the provisions of Sections 56, 57, 58 and 60 of the Bihar Prohibition and Excise Act, 2016 is



under challenge in **Cr. W.J.C. No. 2446 of 2017 (Rahul Kumar @ Rahul V. The State of Bihar and others)** and the matter is pending before the larger Bench of this Court.

4. Hence, the respondents are directed to release the referred vehicle in favour of the petitioner, by way of ad interim custody, on execution of **bank guarantee of Rs.5,00,000/- (Five Lacs) or sale deed of immovable property of equal value standing in the name of the petitioner** 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. Further proceeding of (Excise Act) Confiscation Case No.7 of 2017 shall remain stayed till disposal of the Cr.W.J.C. aforesaid and shall be subject to the Cr.W.J.C. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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