

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1535 of 2017

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

- =====
1. Santosh Kumar @ Santosh Kumar Singh Son of Satrugan Singh, R/o Vill.-
Rahatpur, P.S.- Ballia, Dist.- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar Through Chief Secretary,
2. The District Magistrate, Begusarai.
3. The Superintendent of Excise Department , Begusarai.
4. The Officer in Charge-Begusarai Muffasil Police Station, Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 14-09-2017

Heard learned counsel for the parties.

2. The Bolero GLX vehicle of this petitioner bearing
registration No.BR-09B/3393 was seized in connection with
Begusarai Muffasil P.S. Case No.54 of 2017 for alleged violation of
the Excise law.

3. The petitioner moved the learned Additional Sessions
Judge-cum-Special Judge 7th , Begusarai, for release of the vehicle
and the prayer was refused on 12.06.2017 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.

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 the 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. Finding substance in the submission of the learned counsel for the petitioner especially the fact that no purpose would be served by continued detention of the said vehicle, let referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.8,00,000/- (Eight Lacs), not in the form of cash/Bank Guarantee, along with two sureties of the like amount each to the satisfaction of the concerned authority 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. Further proceeding of Confiscation Case No.15 of 2017 shall remain stayed till disposal of



the L.P.A. aforesaid. This order shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2017
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