

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1602 of 2017

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

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1. Ajay Kumar, Son of Ram Lakhan Yadav, Resident of Mohalla-Rahim Bigha,
P.s.-Chandauti, District-gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Govt. of Bihar, Patna
2. The District Magistrate-Cum-Collector, Gaya.
3. The Superintendent of Police, Gaya.
4. The Officer in Charge, Sherghati Police Station, District-Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-09-2017

Heard learned counsels for the parties.

This writ application is directed against the order dated 27.04.2017 passed by the District Magistrate-cum-Collector, Gaya in connection with Excise Case No. 09 of 2017, Annexure-6 whereby the Collector has refused to release the seized Tempo bearing registration no. BR-02PA-1096. The said vehicle was seized in connection with Sherghati Police Station Case No. 570 of 2016 registered under the Bihar Prohibition and Excise 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.**). In the circumstances, till disposal of the L.P.A. aforesaid, further proceeding of confiscation case 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 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 tempo 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)

Nitesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

