

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2038 of 2017

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

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Md. Shamshad @ Samsad, S/o Abul, R/o Pokharia, P.S. - Araria, Distt. - Araria
..... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Patna, Bihar
2. The District Magistrate, Katihar
3. The Superintendent of Police, Katihar
4. The S.H.O. Balrampur Police Station (Katihar)

..... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar Singh, Advocate

For the Respondents : Mr. Vivek Prasad, G.P. VII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Learned counsel for the petitioner seeks permission to make necessary correction in paragraph no. 1 of the writ petition in course of the day.

Prayer is allowed.

Heard learned counsel for the parties.

This writ application has been preferred for quashing the order dated 28.07.2017 passed in Excise Prohibition Vehicle Confiscation Case No. 290 of 2016-17 by the Collector, Katihar whereby the Collector has confiscated the Pickup Van of the petitioner bearing registration no. BR-11GA-2982 which was seized in connection with Balrampur P.S. Case No. 87 of 2016 for alleged violation of the Bihar Excise Law. Further prayer is for release of the said Pickup Van as no purpose would be served by its continued



detention of the vehicle in police lock up as well as on the ground that authority of the executive to pre-trial confiscation is under challenge before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 **(Baleshwar Roy vs. The State of Bihar & Ors.)**.

After hearing the parties, finding substance in the submission aforesaid, let the aforesaid vehicle be released in favour of the petitioner on execution of bank guarantee of Rs.3,00,000/- (rupees three lakhs) or sale deed in respect of immovable property standing in the name of the petitioner or his wife, 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 or put the same under encumbrance without permission of the authority concerned and shall produce as and when required by the Court.

The release shall be subject to the result of the pending L.P.A.

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

