

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2106 of 2017

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

=====

1. Niraj Kumar Singh @ Niraj Singh @ Bhim Singh, Son of Mukhram Singh,
Resident of Village- Tetaria, Police Station- Mufassil, District- Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Collectr cum District Magistrate, Bhojpur.
3. The Superintendent of Police, Bhojpur.
4. The S.H.O., Barhara (Krishnagarh) Police Station, Bhojpur.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rahul Nath, Advocate

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

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 22-11-2017

Heard learned counsel for the petitioner and the State.

2. Commercial quantity of liquor was recovered from the car of the petitioner bearing registration No.BR-01DC 1829 and Barahara P.S. Case No.175 of 2017 was registered under Section 414 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition and Excise Act, 2016. Subsequently, notice was issued to the petitioner for initiation of confiscation proceeding as Misc. Case (Excise) No.100 of 2017.

3. The present writ application has been filed challenging the confiscation order on the ground that pre-trial confiscation is bad-in-law and the aforesaid issue is under consideration before a larger Bench of this Court in **LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.** Hence, till adjudication of the



aforesaid issue the operation of the confiscation proceeding be stayed and interim release of the vehicle be ordered as no purpose is going to be served by its continued detention in police lockup.

4. After hearing the parties and finding substance in the submission aforesaid regarding pendency of the issue before a larger Bench as to whether the executive authority can confiscate the seized vehicle before proof of guilt, the operation of the confiscation proceeding is stayed till adjudication of the aforesaid issue in the L.P.A. aforesaid and shall be subject to the result of the L.P.A. aforesaid.

5. Since commercial quantity of liquor was recovered from the vehicle of the petitioner, let the same be released in favour of the petitioner by way of ad interim custody on execution of **bank guarantee of Rs.5,00,000/- (Five Lacs)** 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.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.11.2017
Transmission Date	25.11.2017

