

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2077 of 2017

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Ramesh Chandra Ojha, Son of Late Baidya Nath Ojha, Resident of H.E.C. Sector-2,
C.D./143 P.S.-Jagarnathpur Dhurwa District Ranchi (Jharkhand)

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Excise Department Govt. of Bihar , Patna.
2. The District Magistrate-cum-Collector, Nawadah.
3. Superintendent of Police, Nawadah.
4. District Transport Officer, Nawadah.
5. Excise Superintendent, Nawadah.
6. Officer in Charge, Rajauli, Nawadah.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Adv.

For the Respondent/s : Mr. Kumar Manish, S.C.5.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 08-11-2017

Heard learned counsel for the petitioner and the
State.

2. Commercial quantity of foreign liquor was recovered from the Mahindra TUV 300 of the petitioner bearing registration No.JH-01B/3225 and Rajauli P.S. Case No.10 of 2017 was registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016. Subsequently, Misc. Case No.323(M) of 2017 was initiated for confiscation of the aforesaid vehicle and by order dated 15.09.2017 contained in Annexure-5 the said vehicle was confiscated.

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 impugned order 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 impugned order 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.4,00,000/-(Four 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)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.11.2017
Transmission Date	11.11.2017

