

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2609 of 2017

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

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Sushil Kumar @ Sushil Paswan, S/o Late Rameshwar Paswan, Resident of Patut,
P.S.- Ranitalab, District- Patna.

.... Petitioner

Versus

1. The State of Bihar, through the Collector, Patna.
2. The Collector, Patna.
3. The Supply Inspector, Bihta, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. D.K.Tiwary, Adv.

For the Respondent/s : Mr. Ashok Ranjan, A.C.to A.A.G.-5.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-12-2017

Heard learned counsel for the parties.

2. The petitioner, after some argument, confines his prayer for release of the truck bearing Registration No. BR11J-3055 which was seized in connection with Bihta P.S.Case No. 421 of 2016 registered under Section 7 of the E.C.Act and subsequently Confiscation Case No. 19 of 2016-17 was initiated which is pending before the learned Collector, Patna.

3. Submission of the learned counsel for the petitioner is that the jurisdiction of the executive authority to confiscate the vehicle is under challenge in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) before a Larger Bench of this Court.



Moreover pre-trial confiscation would amount to pre-trial punishment which is not permissible in law.

4. After hearing the parties, finding substance in the submission aforesaid, let the aforesaid vehicle be released in favour of the petitioner on execution of surety bond of Rs.20,00,000/- (rupees twenty lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount 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.

5. The further proceeding of Confiscation Case No. 19 of 2016-17 shall remain stayed and the release shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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