

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1633 of 2017

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

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Mahesh Mahaseth, Son of Late Ramjee Mahaseth, Resident of Village - Dubhi,
Post Office - Mahinathpur, Police Station - Basopatti, District - Madhubani

.... Petitioner

Versus

1. The State of Bihar, through the D.G.P., Patna.
2. The D.M., Madhubani.
3. The S.P., Madhubani.
4. The Dy. S.P., Madhubani.
5. The S.H.O., Pandaul Police Station, District - Madhubani.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Jha, Advocate

For the Respondent/s : Mr. Manish Kumar, G.P. 4

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-09-2017

Heard learned counsels for the parties.

2. The Bolero Pick-up Van of the petitioner bearing registration No. BR-32F-5326 was seized loaded with rice near Hatia Gachhi of Pandaul Block/Panchayat and Pandaul P.S. Case No. 200 of 2016 corresponding to G.R. No. 1941 of 2016 was registered under Section 7 of the Essential Commodities Act.

3. The petitioner moved before the learned Chief Judicial Magistrate, Madhubani for release of the Bolero Pick-up Van on the ground that petitioner is the owner of the Bolero Pick-up Van and no purpose would be served in continuance of the seizure of the Bolero Pick-up Van rather it would cause external and internal damage to the vehicle.



4. By order dated 30.11.2016, the learned Chief Judicial Magistrate, Madhubani rejected the prayer of the petitioner on the ground that confiscation proceeding is going on before the District Magistrate, Madhubani.

5. Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise power, of a judicial authority to confiscate the vehicle, is under sub judice before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). Hence, till disposal of the L.P.A. aforesaid, further proceeding in pursuance of the impugned order be stayed and the vehicle be released as ad interim custody in favour of the petitioner as no purpose is going to be served by its continued detention.

6. Learned counsel for the State-respondent submits that he has no objection.

7. Since the jurisdiction of the authority concerned (Executive Authority) to confiscate the vehicle is sub judice before this Court, there is no reason to not grant the interim relief to the petitioner till adjudication of the aforesaid issue.

8. Hence, it is ordered that the operation of the impugned order shall remain stayed and shall be subject to the result of the L.P.A. aforesaid.



9. Let the referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond of Rs.10,00,000/- (rupees ten lakhs) (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 as and when required.

10. Accordingly, this application stands disposed of.

(Birendra Kumar, J)

Kundan/-

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CAV DATE	
Uploading Date	
Transmission Date	

