

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1859 of 2017

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

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Nitesh Kumar @ Aman Kumar, Son of Sashidhar Prasad Singh, R/o Village Murliganj, Ward No. - 15, P.S. - Murliganj, District - Madhepura.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise Government of Bihar, Patna.
2. The Excise Commissioner, Koshi Division Saharsa.
3. The District Magistrate Cum Collector, Madhepura
4. The Superintendent Excise Cum In Charge Officer, Revenue Department, Madhepura.
5. The District Excise Officer Saharsa.
6. The S.H.O. of Murliganj P.S., District - Madhepura.
7. The Excise Inspector, Madhepura.
8. The Investigating Officer, of Murliganj P.S., Madhepura (Murliganj P.S. Case No.95/2017).

.... Respondents

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Appearance :

For the Petitioner : Mr. Shekhar Kumar Singh, Advocate

For the Respondents : Mr. Deepak Kumar, A.C. to S.C. No. 5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-12-2017

Heard learned counsel for the parties.

2. This writ application has been preferred for quashing the order dated 11.07.2017 passed in Confiscation Excise Case No. 23 of 2017 by the District Magistrate, Madhepura vide Annexure-9 in connection with Murliganj P.S. Case No. 95 of 2017 whereby vehicle of this petitioner bearing registration no. BR43D-2076 was confiscated.

3. Since constitutional validity of the provisions under Sections 56, 57, 58 and 60 of the Bihar Prohibition and Excise Act, 2016 relating to confiscation is under challenge and the matter is



pending before a Larger Bench in Cr.W.J.C. No. 2446 of 2017 (**Rahul Kumar @ Rahul Vs. The State of Bihar & Ors.**), let the aforesaid vehicle in question be released in favour of the petitioner as ad interim custody on execution of bank guarantee of Rs.50,000/- (rupees fifty thousand) or immovable property of equal value standing in the name of the petitioner, 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, if the vehicle has not been auctioned as on today.

4. In the meantime, operation of the impugned order dated 11.07.2017 shall remain stayed and the release shall be subject to the final result of the pending Cr.W.J.C. aforesaid.

5. With the aforesaid observation and direction, this writ application, accordingly, disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	16.12.2017
Transmission Date	16.12.2017

