

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1954 of 2017

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

=====

1. Meena Devi W/o Late Jagdish Singh, R/o Village- Padma, P.S.- Ladaniya,
District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Department of Excise
Prohibition And Registration, Bihar, Patna.
2. The District Magistrate, Madhubani,
3. The Superintendent of Excise, Madhubani.
4. The Sub Divisional Police Officer, Sadar, Madhubani.
5. The Inspector of Police, Madhubani.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ratanakar Jha, Advocate

For the Respondent/s : Mr. Vikash Kumar, SC-11

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsel for the petitioner and the State.

2. 360 liters of Nepali liquor, containing in 1200 bottles,
was allegedly recovered from the Mahindra Meximo of this
petitioner bearing Registration No.BR32PA-0296 and for the
aforesaid act Excise Case GO 101/17 was registered under Section
30(a) of the Bihar Prohibition and Excise Act, 2016. Subsequently,
Confiscation (Excise) Case No.606 of 2016-17 was initiated for
confiscation of the aforesaid vehicle and by order dated 01.08.2017
contained in Annexure-4 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.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.11.2017
Transmission Date	17.11.2017

