

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1234 of 2017

Md. Akhtar Khan, son of late Md. Yasin Khan, resident of village Ahiyapur,
P.S. – Bahera, District – Darbhanga.

.... Petitioner

Versus

1. The State of Bihar Through The Principal Secretary, Department of Home, Main Secretariat, Patna
2. The Commissioner, Department of Excise, Darbhanga.
3. The District Magistrate, Darbhanga.
4. The Sub-Inspector of Police, Nehra O.P., Manigachhi, P.S. – District – Darbhanga.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Madhusudan Kumar

For the Respondent/s : Mr. Vivek Prasad (Gp-7)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 19-01-2018

Heard learned counsel for the petitioner and

learned counsel representing the State.

Petitioner has prayed for release of the Tempo vehicle bearing registration no. BR07PA-6089 in favour of the petitioner in connection with G.O. Excise Case No. 277 of 2017 arising out of Manigachhi P.S. Case No. 60 of 2017 for the offences under Sections 30(a) of Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that in the present case a confiscation proceeding was initiated and the Collector-cum-District Magistrate, Darbhanga has passed an order in the confiscation proceeding on 18.10.2017 during the pendency of the



present application. The vehicle in question was allegedly carrying 375 ml. English wine.

Learned counsel submits that the very power of the Collector-cum-District Magistrate to initiate a confiscation proceeding being an executive is under challenge in L.P.A. No. 1647 of 2015 before Division Bench of this Court. He prays for interim release of the vehicle in question.

Let the vehicle, if belongs to the petitioner, be released provisionally on production of proof of ownership and registration of the vehicle in his favour subject to the following conditions:-

(i) Petitioner shall furnish a surety bond of Rs. 2,25,000/- (Rupees Two Lakhs Twenty Five Thousand only) (not in form of case or Bank guarantee) with two sureties of the like nature each to the satisfaction of the learned Court below or the Collector cum District Magistrate, Darbhanga, as the case may be.

(ii) Petitioner shall furnish an undertaking that he would not alienate or encumber the vehicle or deal with them adverse to the interest of the State and shall produce the vehicle before the court below and/or the



Collector-cum-District Magistrate, Darbhanga, as and when directed.

(iii) A photograph of the vehicle shall be taken and panchnama be also prepared, certified and be kept on record in accordance with law.

It shall be subject to result of the decision in LPA No.1647 of 2015 where a question as to whether the Collector can pass an order of confiscation is pending consideration.

This application is, accordingly, disposed off.

Rajeev/-

(Rajeev Ranjan Prasad, J.)

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