

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.535 of 2018

In
Criminal Writ Jurisdiction Case No.2247 of 2017

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Manoj Sah S/o Yogendra Sah, resident of Village- Bakhari Najir, P.O. P.S.-
Mehsi, District East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar Through Its Chief Secretary Old Secretariat, Patna
2. The Principal Secretary, Department of Excise, Bihar, Patna.
3. The Principal Secretary, Home Police, Bihar, Patna.
4. The District Collector, Motihari, East Champaran.
5. The Superintendent Excise, Motihari, East Champaran.
6. S.H.O. Mehsi P.S., District- East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ratneshwar Prasad, Adv
For the Opposite Party/s : Mr.Anil Kumar Sinha - Ga 1, Adv

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 10-04-2019

Heard learned counsel for the parties.

2. This is an application for modification of order dated 22.11.2017 passed in Cr.W.J.C.No.2247 of 2017.

3. Mahindra Bolero vehicle of the petitioner bearing registration No.BR06 PD 4147 was seized by the police in connection with Mehsi P.S.Case No.276 of 2017 for commission of alleged offences under Sections 30 and 38 of Bihar Prohibition and Excise Act, 2016. The vehicle was ordered to be released in favour of the petitioner considering



pendency of the question of law involved in **LPA No.1647 of 2015 (Baleshwar Roy Vs.The State of Bihar & Ors)**. The vehicle was ordered to be released on execution of bank guarantee of Rs.5,00,000 or production of document of immovable property standing in the name of the petitioner to the satisfaction of the learned court below.

4. Modification has been sought for on the ground that petitioner is not capable to give bank guarantee. There is no immovable property in the name of the petitioner rather in a family partition between two brothers, half of the property standing in the name of the father of the petitioner pertaining to Khata No.47 Plot No.2289 Area 41 decimals has been allotted to the share of the petitioner and another half has been allotted to the share of brother. The sale deed of the aforesaid plot is in the name of the father of the petitioner. Father of the petitioner has sworn affidavit contrary to the area mentioned in the sale deed vide Annexure-3. At Annexure-4 is the sale deed which shows that total area of Plot No.2289 is 9 katha 4 dhurs.

5. In view of the factual position aforesaid, I am not inclined to review the earlier order aforesaid passed in the



Cr.W.J.C. No.2247 of 2017. Hence, this application for modification is dismissed as devoid of any merit.

6. L.P.A. aforesaid has already been decided. Hence, the competent authority shall proceed according to law.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.04.2019
Transmission Date	NA

