

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1870 of 2017

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

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Suraj Kumar, Son of Rajesh Gope, Resident of Mohalla - Pachmi Darwaja in front of Mazzar, P.S. - Alamganj, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Inspector General of Bihar, Prosecution, Govt. of Bihar, Patna.
3. The District Collector, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Officer Incharge, Alamganj Police Station, Patna.
6. The Assistant Sub-Inspector, Alamganj P.S. Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Pramod Kumar, Advocate

For the Respondents : Mr. Kumar Manish, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 17-10-2017

Heard learned counsel for the parties.

60 bottles of foreign liquor each containing 750 ml was, allegedly, recovered from the western room of the ground floor of the house of the petitioner and the room was sealed in connection with Alamganj P.S. Case No. 210 of 2017.

Prayer is for unsealing of the room as the same is causing inconvenience in use of the residential premise.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority have power to confiscate and seal the house seized in connection with the aforesaid case which power, is exercisable only by a Judicial Authority, is sub



judice before a large Bench of this Court in L.P.A. No. 1647 of 2015 **(Baleshwar Roy vs. The State of Bihar & Ors.)**. In the circumstances, till the decision of the L.P.A. aforesaid, further proceeding of Alamganj P.S. Case No. 210 of 2017 may kindly be stayed and the house be unsealed by way of interim measure.

Learned counsel for the petitioner placed reliance on a judgment of this Court in a case of **Smt. Manorama Devi @ Manorma Devi vs. The State of Bihar & Ors.** (Cr.W.J.C. No. 605 of 2016) relevant part whereof is reproduced hereinbelow:

“Learned counsel for the petitioner confines to the prayer made in this writ petition to unsealing residential premises of the petitioner, from where allegedly a few bottles of liquor were recovered less than one month after the notification was issued on 05.04.2016.

Considering the facts and circumstances and considering the various orders that have been passed in various cases, we direct that the premises of the petitioner be unsealed without prejudice to the State in respect of any other matter which would be disposed of in accordance with law.”

Considering the facts and circumstances of the case, let the respondents, immediately, unseal the house of the petitioner and hand over its possession to the petitioner, subject to the result of L.P.A.



With the aforesaid observation, this application stands disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	18.10.2017
Transmission Date	18.10.2017

