

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1965 of 2017

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

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Kumar Rajeev Ranjan @ Raju Kumar, Son of Sri Mahaveer Prasad, R/O Village
Kachi Pokhar (Patsa), P.S Bihta, Dist. - Patna

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary Prohibition & Excise Dept. Bihar Patna
3. The District Magistrate, Patna
4. The Senior Superintendent of Police Patna
5. The Superintendent of Police, Rural Area Patna
6. The officer-in-charge, Bihta Police Station District Patna

.... Respondents

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Appearance :

For the Petitioner : Dr. Kamal Deo Sharma, Advocate
For the Respondents : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 17-10-2017

Heard learned counsels for the parties.

The house of the petitioner, situated at Mauza Raghopur,
Thana 45, Khata No. 12526, Khesra No. 927, village Raghopur, P.S.
Bihta, District Patna, has been sealed for violation of the provisions of
the Bihar Prohibition and Excise (Amendment) Act, 2016 and for the
occurrence aforesaid Bihta P.S. Case No. 341 of 2017 was registered.

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 Bihta P.S. Case No. 341 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 writ application stands disposed of.

(Birendra Kumar, J)

Kundan/-

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