

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2380 of 2017

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

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Sanjeev Kumar Singh, Son of Hari Prasad Singh, Resident of Village- Dudhaila,
Gachhi, P.S.- Sonpur, District- Saran.

.... Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Excise Department, Bihar Patna.
2. The District Magistrate-cum- Collector, Saran, (Chhapra).
3. The Superintendent of Police, Saran (Chhapra).
4. The Sub- Divisional Officer, Sonapur (Chhapra).
5. The Superintendent of Excise, Saran (Chhapra).
6. The Circle Officer, Sonapur, (Chhapra).
7. The Senior Deputy Collector, District Legal Branch, Saran (Chhapra).
8. The Asstt. Sub- Inspector, Manoj Kumar Singh Sonapur Thana (Chhapra).
9. The S.H.O. Sonapur Thana (Chhapra).

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rana Baljit Singh, Adv.

For the Respondent/s : Mr. Vikash Kumar, S.C.-XI.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the parties.

2. 59.4 liters of foreign liquor were allegedly recovered from the house of the petitioner for which Sonapur P.S.Case No. 185 of 2017 was registered under Sections 272, 273 of the Indian Penal Code and 30 (a), 41/47 of the Excise Act against the petitioner. Subsequently Confiscation Case No. 24 of 2017 was initiated and by order dated 03.10.2017 the said house has been confiscated along with the land.



3. The petitioner has challenged the aforesaid order in this writ application on the ground that executive authority has no power to confiscate in a preliminary manner, which is a power exercisable by a judicial authority and the matter is already sub judice before a larger Bench of this Court in **LPA No.1647 of 2015 (Baleshwar Roy V. The State of Bihar & Ors.)**. He further submits that a Division Bench of this Court in **Cr.W.J.C. No.605 of 2016 (Smt. Manorama Devi @ Manorma Devi vs. The State of Bihar & Ors.)** in similar circumstances has ordered unsealing of the premises.

4. Considering the urgency of the matter and the aforesaid binding precedent, let the respondent authorities immediately unseal the premises of the petitioner and handover the possession of the house to the petitioner with further condition that the petitioner shall not dispose of the said house or put under encumbrance without permission of the Collector concerned.

5. The operation of confiscation proceeding, if any, pending or order of confiscation, if any, found in respect of the said house shall remain in abeyance till disposal of the L.P.A. aforesaid and the same shall be subject to the final result of the L.P.A .



6. With the aforesaid observation, this application stands disposed of.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.12.2017
Transmission Date	08.12.2017

