

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1176 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

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Sarjug Prasad S/o Late Ram Sahaya Mahto, R/o Village- Kewai Dih, P.S.-
Noorsarai, District- Nalanda.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Patna Division, Patna.
4. The Principal Secretary (Excise), Government of Bihar, Patna.
5. The District Magistrate, Nalanda at Biharsharif.
6. The Sub Divisional Officer, Biharsharif, Nalanda.
7. The District Excise Superintendent, Nalanda at Biharsharif.
8. Nitish Kumar, S/o Shiv Nandan Prasad, R/o Village- Kowandih, P.S.-
Noorsarai, District- Nalanda.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Binit Kumar, Adv.

For the Respondent/s : Mr. Lalit Kishore, A.A.G.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 16-11-2017

Heard the learned counsel for the parties.

2. The petitioner is owner of the hotel named and styled as Hotel Manpasand situated on Plot No. 771 in village- Kewai, P.S.-Noorsarai, District-Nalanda. The hotel was being run on rent by respondent No.8 Nitish Kumar. Respondent No.8 has filed a petition on oath that he has no objection if the hotel is unsealed in favour of the petitioner.

3. The aforesaid hotel was sealed by the respondent authorities in connection with Case No. 154C Ex/2016



on the allegation that 3.180 liters of foreign liquor was recovered from there.

4. Submission of the learned counsel for the petitioner is that after seizure of the hotel, the authorities are going to take action to confiscate and auction the same. His contention is that the pre-trial auction would amount to pre-trial punishment, which is not permissible under the law and the aforesaid matter is subjudice before a larger Bench of this Court in *LPA No.1647 of 2015 Baleshwar Roy V. The State of Bihar & Ors.* Hence till disposal of L.P.A. aforesaid, further proceeding before the court/authority below in the matter of confiscation and auction be stayed and the hotel be unsealed in favour of the petitioner as no purpose would be served by its continued detention.

5. Learned counsel for the respondents submits that the appropriate condition be imposed in the event this Court orders for unsealing the hotel so that the petitioner may not dispose of the same or put the same under encumbrance. Further condition be imposed that the petitioner would ensure that no similar offence is committed thereat in future.

6. Considering the entire facts and circumstances, let the hotel Manpasand be unsealed in favour of the petitioner on filing undertaking that he would not dispose of



or put the same under encumbrance nor shall allow the same to be used for illegal purpose. The release shall be subject to the result of L.P.A. aforesaid.

7. With the aforesaid observation, this writ application stands disposed of.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.11.2017
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