

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2507 of 2017

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

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1. Mridul Kumar Singh, Son of Mithilesh Kumar Singh, Resident of House No. 6,
Road No. 1A, Ganesh Path, Shivpuri, P.S.- Shashtri Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Department of Registration,
Excise And Prohibition, Government of Bihar, Patna.

2. The Excise Commissioner, Bihar, Patna.

3. The Collector cum the District Magistrate, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brisketu Sharan, Advocate

For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the parties.

2. The petitioner has invoked the writ jurisdiction of this Court to quash the order dated 02.11.2017 passed in connection with Confiscation Case No.21 of 2016-17 by the Collector, Patna, under the Bihar Prohibition and Excise Act, 2016. By the said order the prayer of the petitioner to unseal the house, situated at Mauja-Chandpur, Kumhrar, Praganas- Azimabad Surve, Thana Patna City pertaining to Thana No.12, Part Cadastral Survey Plot No.116, Tauzi No.36, Khata No.141, which was sealed in connection with Ram Krishna Nagar P.S. Case No.208 of 2016, has been refused and the referred house has been confiscated.

3. Submission of the learned counsel for the petitioner is that the power of the executive authority to confiscate the vehicle/house and its confiscation and auction would amount to pre-



trial punishment, which is not permissible in law and the same issue is pending consideration before a larger Bench of this Court in **LPA No.1647 of 2015 (Baleshwar Roy V. The State of Bihar & Ors.)** and considering the aforesaid pendency another Division Bench of this Court in **Cr.W.J.C. No.605 of 2016** in similar circumstances has ordered unsealing of the premises.

4. After hearing the parties and considering the fact that similar issue is pending before the larger Bench of this Court, let the referred house of the petitioner be unsealed and possession thereof be handed over to the petitioner on furnishing surety bond of Rs.2,00,000/- (Two lacs) with two sureties of the like amount to the satisfaction of the authority concerned, on the petitioner's filing an undertaking that they would not dispose of the same or put under encumbrance without permission of the learned Court-below/authority concerned where the case is pending.

5. Let operation of the impugned order remain in abeyance till disposal of the L.P.A. aforesaid and shall be subject to the result of the L.P.A. aforesaid.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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