

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2159 of 2017

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

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1. Subhan Mian, Son of Late Ebrahim Mian, Resident of Village- Bhager, P.S.-
Siswan, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Govt. of Bihar,
Patna.
2. The Secretary, Excise Department, Govt. of Bihar, Patna.
3. The Commissioner, Excise Department, Govt. of Bihar, Patna.
4. The District Magistrate, cum Collector, District- Siwan.
5. The Superintendent of Police, Siwan, District- Siwan.
6. The S.H.O. Hussainganj, Police Station (M.H. Nagar, District- Siwan).
7. The Block Development Officer cum Executive Magistrate, Hassanpura,
District- Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Giri, Advocate
For the Respondent/s : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 20-12-2017

Heard learned counsel for the parties.

2. The residential premise of the petitioner situated over
the land having Khata No.106, appertaining to Kheshra No.602,
Mauza Hussainganj, Tauzi No.1184, Thana No.369 was sealed in
connection with Hussainganj M.H. Nagar P.S. Case No.44 of 2017
registered for the alleged violation of the Bihar Excise Law.

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 residential premise of the petitioner be unsealed and possession thereof be handed over to the petitioner, on the petitioner's filing an undertaking that he 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 confiscation proceeding, if any, 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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