

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1412 of 2017

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

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Rajesh Prasad @ Rajesh Kumar @ Raju Kumar, Son of Late Arjun Prasad,
Resident of Mohalla - Fatehganj, Dalhatta Lane, P.S. - Kotwali, District - Gaya

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Excise Commissioner, Bihar, Patna.
2. The District Magistrate, Gaya
3. The Superintendent of Police, Gaya
4. The Sub Inspector, Kotwali, Gaya

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Sanjeev Kumar, Advocate

For the Respondents : Mr. Kumar Manish, SC 5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-09-2017

Heard learned counsels for the parties.

The house of the petitioner has been sealed for violation of the provisions of the Bihar Prohibition and Excise (Amendment) Act, 2016 and for the occurrence aforesaid Kotwali P.S. Case No. 208 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 Kotwali P.S. Case No. 208 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	09.09.2017
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