

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2508 of 2017

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

=====

Nand Kishore Sah, Son of Late Kapildeo Sah, resident of Village- Rupganj, P.S.- Chapra (Town), District- Saran (Chapra).

.... Petitioner

Versus

1. The State of Bihar through Excise Commissioner , Excise Department , Government of Bihar , New Secretariat, Patna.
2. The Superintendent of Police, Saran at Chapra.
3. The Officer in Charge, Chapra, Town Police Station, Chapra.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Dharamveer, Adv.

For the Respondent/s : Mr. Anil Kumar Sinha, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-12-2017

Heard learned counsel for the parties.

2. 20 bottles of foreign liquor were allegedly recovered from the shop of the petitioner for which Chapra (Town) P.S. Case No. 344 of 2017 was registered under Sections 30(A) of the Excise Act against the petitioner.

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. Finding substance in the submission aforesaid, let the respondent authorities immediately unseal the shop of the petitioner and handover the possession of the shop to the petitioner with further condition that the petitioner shall not dispose of the said shop or put under encumbrance without permission of the authority concerned.

5. The operation of confiscation proceeding, if any, pending or order of confiscation, if any, found in respect of the said shop 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	18.12.2017
Transmission Date	18.12.2017

