

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2553 of 2017

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

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1. Nawal Rai Son of late Kishun Rai Resident of Mohalla- Jaganpura, Police Station- Ram Krishna Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Department of Excise, Government of Bihar, Patna .
2. The District Magistrate, Patna.
3. The Senior Superintendent of Police, Magadh Division, Gaya.
4. The Senior Superintendent of Police, Patna.
5. The Officer-in-Charge-Cum- S.H.O. Ram Krishna Nagar, Police station- Patna.
6. The Investigating Officer, Ram Krishna Nagar, Police Station- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Advocate
Mr. Arun Kumar, Advocate
Ms. Minakshi Kumari, Advocate

For the Respondent/s : Mr. Kumar Ravish,

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-12-2017

Heard learned counsel for the parties.

2. The house of the petitioner was sealed in connection with Ram Krishna Nagar P.S. Case No.174 of 2017 (Special Case No.3171 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 house of the petitioner be unsealed and possession thereof be handed over to the petitioner, 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 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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