

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2476 of 2017

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Kameshwar Singh S/o late Nishu Singh R/o Vill- Majauna, P.S.- Dariyapur, Distt. Saran at Chapra. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise & Prohibition, Government of Bihar, Patna .
 2. The Excise Commissioner, Department of Excise & Prohibition, Government of Bihar, Patna.
 3. The District Magistrate Cum District Collector, Saran at Chapra.
 4. The Superintendent of Police, Saran at Chapra.
 5. The Station House Officer, Police Station Dariyapur, District Saran at Chhapra.
- Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Kumar Binode Bariar, Adv.
For the Respondent/s : Mr. Vikash Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-12-2017

Heard learned counsel for the parties.

2. Seven liters of country made liquor was allegedly recovered from the room of the petitioner for which Dariyapur P.S.Case No. 215 of 2016 was registered under Sections 272, 273 of the Indian Penal Code and Section 47 of the Excise Act against the petitioner. Subsequently Confiscation Case No. 62 of 2017 was initiated and by order dated 25.08.2017 the said room has been confiscated along with the land.

3. Submission of the learned counsel of the petitioner is that the continued seizure of the house would serve no purpose 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.** 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 and the aforesaid binding precedent, let the respondent authorities immediately unseal the room of the petitioner and handover the possession of the room to the petitioner with further condition that the petitioner shall not dispose of the said room or put under encumbrance without permission of the Collector concerned.

5. The operation of confiscation proceeding in respect of the said room 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
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