

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1875 of 2017

Arising out of P.S. Case No. - null Year - null Thana - null District - SITAMARHI

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Binod Sahni, Son of Bholu Sahni, resident of Village - Doghara Tola Mahesia, P.S.
- Riga, District - Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Sitamarhi.
2. The Superintendent of Police, Sitamarhi.
3. The Excise Superintendent, Sitamarhi.
4. The Officer-in-Charge, Sitamarhi Police Station, District - Sitamarhi

.... Respondents

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Appearance :

For the Petitioner : Dr. Alok Kumar Alok, Advocate
Mr. Hans Lal Kumar, Advocate

For the Respondents : Mr. Deepak Kumar, A.C, to S.C. 5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 28-11-2017

Heard learned counsel for the parties.

2. The house of the petitioner was sealed in connection with Riga P.S. Case No. 171 of 2016 for alleged violation of the Bihar Excise Laws as three litre Mahua liquor was recovered from there. Subsequently, in Confiscation Case No. 140 of 2016, the Collector, Sitamarhi has confiscated the said house.

3. Submission of the learned counsel for the petitioner is that confiscation and auction of the house prior to conclusion of the trial would amount to pre-trial punishment which is against the established law. Moreover, this issue is pending consideration before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**). Hence, till



adjudication of the aforesaid issue, further proceeding of the impugned order passed in confiscation case aforesaid be stayed and the respondents be directed to unseal the house aforesaid.

4. Considering the pendency of the aforesaid issue as well as substance in the submission of learned counsel for the petitioner that confiscation would amount to pre-trial punishment, let further proceeding before the Collector, Sitamarhi remain stayed in connection with the above referred confiscation case and the respondents, especially, the Collector, Sitamarhi is directed to unseal the house in favour of the petitioner soon after receipt of the copy of this order, with condition that the petitioner would not dispose of the said house or put the same under encumbrance without permission of the Collector, Sitamarhi.

5. With the aforesaid observation, this application stands disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
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