

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2517 of 2017

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

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1. Ram Chandra Chaudhary, S/o Late Balkeshwar Chaudhary, Resident of Village- Khaira Bishanpur, P.S.- Kutumba, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar Through Its Chief Secretary Old Secretariat, Patna.
2. The Principal Secretary, Department of Excise, Bihar, Patna.
3. The Principal Secretary, Home Police, Bihar, Patna.
4. The District Magistrate-cum-Collector, Aurangabad, District- Aurangabad.
5. The Superintendent of Police, Aurangabad, District- Aurangabad.
6. S.H.O. Kutumba P.S., District- Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nitu Kumari, Advocate

For the Respondent/s : Mr. Kumar Manish, SC-5

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the parties.

2. The house of the petitioner situated in Mauza Khaira Bishunpur, P.S. Kutumba appertaining to Thana No.278, Khata No.40, Khesra No.50, Area-28 was sealed in connection with Kutumba P.S. Case No.48 of 2016 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 in connection with Excise Case No.131 of 2016 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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