

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.98 of 2018

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TINKU SAH @ TINKU KUMAR SAH, son of Jai Kishun Sah @ Jai Kishan Sah, resident of Village- Raghunathpur, P.S.- Bajpatti, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar Through The Collector, Sitamarhi.
2. The Collector, District- Sitamarhi.
3. The Superintendent of Excise, Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha

For the Respondent/s : Mr. Vivek Prasad (GP-7)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 16-02-2018 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner in the present case has prayed for ad interim de-sealing of the house which has been seized in connection with Bajpatti P.S. Case No.229 of 2017, District- Sitamarhi registered under Sections 272 and 273 of the I.P.C., Section 30(A) of the Bihar Prohibition and Excise Act, 2016 and Sections 8/20(b)(ii)(A) of the NDPS Act, 1985.

Learned counsel for the petitioner submits that the Collector-cum-District Magistrate had no power to initiate a confiscation proceeding because he happens to be an executive and the question as to whether an executive can initiate a



confiscation proceeding is under challenge before a Division Bench of this Court in LPA NO.1647 of 2015. Learned counsel further submits that for the purpose of de-sealing of the house in question provisionally, petitioner is ready and willing to abide by the terms and conditions which may be imposed by this Court.

Considering the facts and circumstances, pending finalization of confiscation proceeding, let the house of the petitioner be provisionally de-sealed/released in his favour on production of document of title in respect of the house in question and the petitioner furnishes a surety bond of Rs.10,00,000/- (ten lakhs) (not in form of bank guarantee or cash) with two sureties of the like amount to the satisfaction of court below or the authority concerned.

The concerned court/authority shall get prepared a photograph duly certified and a Panchnama of the house in sealed condition before de-sealing of the same and the same will be kept on the record.

The petitioner undertakes not to challenge the said photograph and Panchanama in course of trial or the confiscation proceeding, as the case may be.

The petitioner shall also give an undertaking that he will not deal with the house in question in favour of any third



party or create any interest adverse to the interest of the State without permission of the Court and shall not allow any illegal act to be committed in the house in question. The petitioner shall also give an undertaking that if any portion of the house is rented out he will get done the prior police verification of the said person before handing over the possession of any part of the house.

The application stands disposed off.

(Rajeev Ranjan Prasad, J)

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