

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.315 of 2018

=====

Pahru Sah, Son of Late Manik Sah, R/o Village- Bajitpur, P.S.- Bajpatti,
District- Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Collector/District Magistrate, Sitamarhi.
3. The Senior Superintendent of Police, Sitamarhi.
4. The Excise Inspector, Sitamarhi.
5. Sri Abhishek Kumar S.I. Bajpatti, P.S.- Sitamarhi, Distt.- Sitamarhi.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr. Anil Kumar Sinha (Ga-1)

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 16-03-2018

At the outset, learned counsel for the petitioner seeks permission to convert this criminal writ application in a civil writ application as he wants to challenge the *virus* of the provisions of the Bihar Prohibition and Excise Act, 2016. According to learned counsel, the confiscation order has been passed by the District Magistrate, who is an Executive.

Petitioner is permitted to do so.

Office to report accordingly.

In the meantime, let the Refreshment Shop of the petitioner which has been seized by the police in connection with Bajpatti P.S. Case No. 03/2017, for the offence under Sections 272 of the I.P.C. and Sections



30(a) of the Bihar Prohibition and Excise Act, 2016, be provisionally released within one week from the date of production of proof of ownership of the Refreshment Shop in favour of the petitioner subject to the following conditions:-

(i) Petitioner shall furnish a surety bond of Rs. 5,00,000/- (Five Lakhs only) with two sureties of the like amount to the satisfaction of the District Magistrate, Sitamarhi/ authority concerned.

(ii) The petitioner shall also give an undertaking that he will not deal with the Refreshment Shop in question and shall not alienate or encumber the same creating any kind of adverse interest against the interest of the State, he will not use the Refreshment Shop for any illegal purpose and as and when required.

(iii) At the time of release, the concerned authority/court shall get prepared a photograph duly certified in presence of the petitioner and panchnama of the



Refreshment Shop in question shall also be prepared and keep the same on record which may be used as secondary evidence.

(iv) Petitioner undertakes not to challenge the said photograph and panchnama so prepared in his presence at the time of release of Refreshment Shop in question for use in course of trial or the confiscation proceeding, as the case may be.

Rajeev/-

(Rajeev Ranjan Prasad, J.)

U		T	
---	--	---	--

