

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2648 of 2017

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Md. Shamsad @ Kajju, S/o Nijamuddin @ Late Md. Nizam, R/o Dankakucha, P.S.- Khajekala, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Home Department, Govt. of Bihar Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General, Patna Zone, Patna.
4. The Deputy Inspector General, Central Range, Patna.
5. The District Magistrate, Patna.
6. The Senior Superintendent of Police, Patna.
7. The Superintendent of Police East, Patna.
8. The Sub Divisional Police Officer, Patna City, District- Patna.
9. The Station House Officer, Khajekalan, District- Patna.
10. Executive magistrate, Patna City, Patna.
11. The Union of India through, Chief Controller of Explosives, Govt. of India, Ministry of Commerce and Industry, Petroleum and Explosives Safety Organization, Nagpur.
12. Controller of Explosive, Mahavir Complex, Adarsh Colony, P.O. - New Jagnpura, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Syed Mohammad Shabbir Alam

For the Respondent/s : Mr. Partha Sarthy (GA-4)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

3 14-03-2018 Petitioner, in the present case, is seeking a direction upon the respondent authorities to de-seal his shop which is said to have been sealed by the respondent State officials in connection with Khajekalan P.S. Case No.253 of 2016 dated 04.10.2016. The petitioner has also prayed for quashing of the order dated 13.07.2017 passed by the learned S.D.J.M., Patna City in G.R. No.3109 of 2016 by which he has refused to de-seal the premises



and rejected the application of the petitioner.

At this stage for the purpose of provisional release/de-sealing of the shop in question Sri Ramakant Sharma, learned senior counsel assisted by Mr.Syed Mohammad Shabbir Alam, learned advocate on record, submits that this is a case in which even though F.I.R. has been lodged under certain provisions of the I.P.C. as well as the Explosive Substances Act, but the fact remains that no seizure list has been prepared by the police officer while sealing the shop in presence of the Executive Magistrate, Patna City. Learned senior counsel submits that since the disposal of the criminal case is likely to take many years, the petitioner cannot be deprived of his livelihood by keeping the shop in sealed condition permanently. He further submits that the petitioner is ready and willing to abide by the terms and conditions which may be imposed by this Court for the purpose of de-sealing/release of the shop in question.

On the other hand, Mr. Parth Sarthy, learned counsel representing the State as well as Mr. Ravi Verma and Mr. Shailesh Kumar Kumar, AC to GP-5 jointly submit that the shop has been kept in a sealed condition for the present only because it was not possible on the date of sealing to prepare the inventory or seizure list, but the police authorities are ready to prepare a seizure list if



the petitioner cooperates.

Mr. Kumar Priyaranjan, learned counsel representing the Union of India submits that the petitioner has not been granted any licence for selling of Crackers (Pathaka) in the area in question.

Having heard learned counsel for the parties, this Court is of the considered opinion that there cannot be a permanent sealing of the shop at this stage when the criminal case is still pending and the trial of the same is likely to take sometime. At this time, the petitioner cannot be deprived of his livelihood in form of sealing of the shop in question for indefinite period.

Keeping in view the suggestions which have come from Mr. Parth Sarthy, this Court is inclined to accept the plea that even at this stage, a seizure list may be prepared by de-sealing the shop in question in presence of the petitioner within a period of one week from the date of receipt/production of a copy of this order to the informant.

This Court directs that the shop in question be provisionally de-sealed in favour of the petitioner on production of document of title of the property. However, before de-sealing, a photograph of the shop in sealed condition and Panchnama shall



be prepared by the police officer and the Executive Magistrate of the area in presence of the petitioner. After opening the seal, a complete seizure list will be prepared in presence of two independent witnesses as also in presence of the petitioner who will be handed over a copy of the seizure list at the spot itself.

Petitioner undertakes not to deal with any illegal act in the said shop/premises and shall not alienate the property or create any kind of interest adverse to the interest of the State during the pendency of the criminal case in the trial court.

The writ application stands disposed of with the directions mentioned above.

(Rajeev Ranjan Prasad, J)

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