

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15589 of 2018

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Neelam Sinha W/o Mr. Alakh Kumar Sinha, R/o Bank Road, P.O. + P.S.
Gandhi Maidan, Patna-800003.

... .. Petitioner/s

Versus

1. The Collector Cum District Magistrate, Muzaffarpur.
2. The Superintendent, Muzaffarpur
3. Avinash Kumar @ Nikku S/o Vidhyanand Thakur, Village- Gannipur, P.S.-
Kaaji Mohammedpur, District-Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar
For the Respondent/s : Mr.Vikash Kumar- Sc11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

4 20-12-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been filed seeking provisional
release/unseal of the property at Survey No. 29, Khata No. 605,
Khesra No. 614/1004, Rakba 0.0366 hectre, Mohalla- Kalambagh
Chowk, P.s.- Kazimohammadpur, District- Muzaffarpur relating to
Confiscation Case No. 08 of 2016-17. It has been stated that from the
property in question 360 ml. illicit liquor has been recovered.

Apart from a prayer for release of the property in question
the petitioner has also prayed for quashing of the order dated
23.11.2017 passed by the Collector -cum- District Magistrate,
Muzaffarpur in Confiscation Case No. 08 of 2016-2017 by which a



direction to confiscate the property has been passed by the District Magistrate being the Confiscating Authority.

Learned counsel for the petitioner submits that for the present he would not be pressing the relief for quashing of the order dated 23.11.2017 passed by the Collector -cum- District Magistrate, Muzaffarpur in Confiscation Case No. 08 of 2016-17, he, however, submits that liberty may be granted to the petitioner to challenge the confiscation order in an appropriate jurisdiction by filing an appeal before the Commissioner within a period of 30 days from today.

In view of the circumstance, this application is being disposed of with liberty to the petitioner to challenge the order of confiscation before the appellate authority within a period of 30 days from today. In case such an appeal is preferred within the aforesaid period, with an application for condonation of delay, the appellate authority shall consider the same keeping in mind that the petitioner was prosecuting her remedy before this Court and the appeal shall be heard on its own merit and disposed of expeditiously.

Learned counsel for the petitioner, at this stage, submits that because the appellate authority has no power to pass an interim order of release/unseal, he would press this application for a provisional release/unseal of the property in question. It is further submitted that the property in question is in the name of father-in-law of the petitioner over which she has constructed the house and rented the the rooms to different person and in one of the rooms alleged



recovery illicit liquor was made.

Learned counsel for the State is present.

We have passed order of release in similar circumstance in C.W.J.C. No. 8513 of 2018 wherein we have considered the submissions of the State and at this stage and during pendency of the appeal a provisional release of vehicle/unseal of property has been allowed subject to such conditions which may be imposed to protect the interest of the State. In similar lines, we take a similar view in the present case as well.

Considering the facts and circumstances of the case where it is said to be a room under seizure for more than two years and the petitioner is ready to furnish adequate security to safeguard the interest of the State, following the consistent views of the Division Bench of this Court, we direct that pending appeal, the property in question of the petitioner be provisionally de-sealed and possession be handed over to the petitioner on the petitioner's depositing the original title deed of the property in question as security with one surety to the extent of value of the property as per the circle rate with the District Magistrate, Muzaffarpur. On submission of the original title deed of the property in question with the surety, the property in question shall be de-sealed and possession be handed over within one week thereof. The title deed deposited by the petitioner shall be kept in safe custody of the Confiscating Authority.

The petitioner shall undertake that during the pendency of



the appeal she will not deal with the property in question and shall not create any third party interest whatsoever. If the petitioner fails to present an appeal within 30 days as given above, the order of provisional release/unseal shall be withdrawn by the Confiscating Authority.

The application is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Rajeev Ranjan Prasad, J)

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