

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12474 of 2018

In
Criminal Writ Jurisdiction Case No.1187 of 2018

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Nirmal Ram son of Rajgirhi Ram, R/o village- Nagdiha, P.s.- Baniyapur,
district- Saran at Chapra.. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar
 2. The District Magistrate-cum-District Collector, Saran at Chapra
 3. The Superintendent of Police Saran, Chapra
 4. The Officer Incharge of Baniyapur, P.S.- Saran at Chapra
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar
For the Respondent/s : Mr. Vivek Prasad -Gp7

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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 03-12-2018 Heard learned counsel for the petitioner and learned
counsel representing the State.

This application has been filed for a Mandamus directing the State respondents to release/unseal the Pickle Factory of the petitioner situated in village Nagdiha sealed in connection with Baniyapur P. S. Case No. 141 of 2017 dated 04.06.2017 registered under Sections 272, 273 of the Indian Penal Code and Section 30(a) of Bihar Prohibition & Excise Act, 2016.

It appears that in this case confiscation order has already been passed by the District Magistrate, Saran at Chapra



(Confiscating Authority) in Confiscation Case No. 225 of 2017.

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 his remedy before this Court and the appeal shall be heard on its own merit and disposed of expeditiously.

At this stage learned counsel for the petitioner prays for provisional release of the factory. Learned counsel submits that the house/pickle factory is closed for last more than one year by now. As per the allegations, 17.28 liters of illicit liquor have been recovered from the premises in question and the petitioner is willing to furnish adequate security to protect the interest of the State.

Learned counsel for the State is present.

Considering the facts and circumstances of the case where it is said to be a Pickle Factory under seizure for more than one year 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 and the views expressed by us today in C.W.J.C. No. 8513 of 2018, we direct that the Pickle Factory 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, Saran at Chapra. If the petitioner fails to present an appeal within 30 days as given above, the order of provisional release shall be withdrawn by the Confiscating Authority. On submission of the original title deed of the property in question with the surety, the Pickle Factory 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 owner of the property shall undertake that during the pendency of the confiscation proceeding/appeal he will not deal with the property in question and shall not create any third party interest whatsoever.

The unseal of the house shall be allowed within a period of 7 days from the date of submission of original title deed and the undertakings as stated above. This would,



however, be subject to the order passed in appeal.

(Jyoti Saran, J)

(Rajeev Ranjan Prasad, J)

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