

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3875 of 2018

In
Civil Writ Jurisdiction Case No.1394 of 2018

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Uma Shankar Singh, S/o Late Ram Bachan Singh @ Ram Bachan Kharwar,
R/o Village- Bisharampur, P.S. Dinara (Bhanas), District- Rohtas at Sasaram.
... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
 2. The District Magistrate-cum-Collector, Rohtas.
 3. The Superintendent of Excise, Rohtas at Sasaram.
 4. The S.H.O. Dinara (Bhanas) Police Station, Rohtas at Sasaram.
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. Babu Nandan Prasad
For the Respondent/s : Mr. Amaresh Kumar Sinha, AC to GA- 1

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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)

3 04-12-2018 Heard learned counsel for the petitioner and learned
counsel representing the State.

This application has been preferred seeking
modification in the order dated 29.01.2018 passed in CWJC
No.1394 of 2018.

In the order dated 29.01.2018 while directing for
unsealing of the house/land/premise(s) in question, this Court
had imposed a condition whereunder the petitioner has been
obliged to furnish bank guarantee to the satisfaction of the
Collector cum District Magistrate, Rohtas at Sasaram within a
period of one week from the date of his furnishing bank



guarantee.

Learned counsel for the petitioner submits that under the provisions of the Bihar Prohibition and Excise Act, 2016, the maximum order which may be passed by the confiscating authority is to confiscate the house in question. Under these conditions where the property itself is subjected to confiscation proceeding no bank is ready to provide bank guarantee on taking that property as surety and, therefore, the petitioner is unable to furnish bank guarantee.

In similar circumstances, the Hon'ble Division Bench of this Court has taken a view that in such cases where the provisional release of the house is allowed, the petitioner may be directed to deposit the original title deed of the property in question instead of bank guarantee. Several orders to that effect have been passed earlier.

Keeping in view all those orders we think it just and proper to modify the order dated 29.01.2018 to the extent that on petitioner depositing the original title deed of the house/land/premise(s) in question as security with the Collector cum District Magistrate, Rohtas at Sasaram with personal surety bond the house/land/premise(s) of the petitioner shall be unsealed and possession be handed over to the petitioner within



a period of seven days from the date of deposit of the title deed
and surety bond.

To that extent the order dated 29.01.2018 passed in
CWJC No.1394 of 2018 stands modified.

The modification application is allowed.

(Jyoti Saran, J)

(Rajeev Ranjan Prasad, J)

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