

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10152 of 2018

Ashok Kumar Rai @ Ashok Rai, S/o Late Bhageshwar Rai, Resident of
Mohalla- Gandhi Chowk, P.S.- Chapra Town, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise
Government of Bihar, Old Secretariat, Patna.
2. The Director General of Police, Old Secretariat, Patna.
3. The Superintendent of Police, Saran at Chapra.
4. The Station House Officer, Police Officer, Chapra Town.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar

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

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 18-12-2018 Heard learned counsel for the petitioner and learned
counsel for the respondents.

This application has been preferred seeking a provisional
release/de-seal of the godown in question which is situated at Rouza
Pokhara, P.S. - Chapra Town, Chapra in connection with Chapra
town P.S. Case No. 571/2016 for offences under Section 31(a) of the
Bihar Prohibition and Excise Act 2016. A confiscation Case No.
339/2017 has been filed before the District Magistrate, Saran at
Chapra regarding this matter.

Learned counsel for the petitioner informs this Court that
a confiscation proceeding has been initiated but the present stage of
confiscation proceeding is not known even to the learned counsel
representing the State. Learned counsel submits that considering the



huge quantity of illicit liquor recovered from the premises in question it would not be just and proper for this Court to exercise its discretion under Article 226 of the Constitution of India to provisional unseal/release of the premises (Godown). Learned counsel further submits that the writ application may, for the present, be disposed of with a direction to the District Magistrate, Chapra at Saran to conclude the confiscation proceeding within a reasonable time.

Having heard the parties and on perusal of records, we find that in the present case there is recovery of 3430 liters of foreign wine from the godown of the petitioner. Even though we are directing provisional release/de-seal of the vehicle/godown in some of the cases but while doing so we take into consideration the quantity of the liquor and the nature of the premises involved in the alleged offence.

In the present case, we are not persuaded to allow provisional release of the godown in question from where 3430 liters of foreign wine have been recovered. We find that the confiscation proceeding is pending and at this stage we direct the District Magistrate, Chapra at Saran to conclude the confiscation proceeding and pass an appropriate order after hearing all the parties concerned within a period of 90 days from the date of receipt/production of a copy of this order.

If the confiscation proceeding is not concluded within the aforesaid period the petitioner will be at liberty to seek his remedy in



accordance with law.

This writ application stands disposed of.

(Jyoti Saran, J)

(Rajeev Ranjan Prasad, J)

Rajeev/R.R.Ojha

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