

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24937 of 2018

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Mintu Kumar @ Sarvajit Kumar, aged about 21 years, S/o- Shri Jagmohan Mahto, Resident of Village- Khawaspur Khurd, Tola- Paharganj at present Bhairampur Nizamat P.S.- Doriganj, District- Saran (Chapra)

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Registration Excise and Prohibition Department, Government of Bihar, Patna
2. The Excise Commissioner, Bihar, Patna
3. The District Magistrate cum Collector, Saran
4. The Director General of Police, Bihar, Patna
5. The Superintendent of Police, Saran
6. The Officer in Charge, Doriganj, P.S. Doriganj, District- Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Upendra Kumar Singh, Advocate
For the Respondent/s	:	Mr.Anil Kumar Sinha, GA-1
		Mr. Pawan Kumar, A.C. to G.A.1

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 21-12-2018 Heard Shri Upendra Kumar Singh, learned counsel

for the petitioner and Shri Anil Kumar Sinha, learned counsel

for the State.

This application has been filed for provisional release of a shop/Gumati which is stated to be situated on Plot No. 10 of old Khata No. 132, Thana No. 503, near Pillar No. 51 which is named as Rausan General Store in Village- Chirand, north side of Ara-Chapra bridge, near Tinmuhani, Police Station- Doriganj, District- Saran.



The action has been taken keeping in view the alleged offence having been committed under Sections 272, 273 of the Indian Penal Code and Section 30(a) and Section 38 of the Bihar Prohibition and Excise Act, 2016, registered as Case No. 156/2018, Police Station- Doriganj.

Having considered the submissions raised and in view of the fact that 7.87 litres of alleged illicit liquor having been allegedly recovered, we direct that in view of the undertaking given before us for providing surety, the said Gumati shall be released provided the document of ownership/title in relation to the said Gumati is furnished before the Collector, Saran and the release order with regard to the said Gumati shall be issued provisionally in favour of the petitioner subject to the following undertakings:-

(i) That the Gumati/shop in question has never been involved in any offence of similar nature in past;

(ii) That the petitioner shall not indulge in creating any third party right or interest in respect of the Gumati/shop during the pendency of the confiscation proceeding and shall not alienate the Gumati/shop during this period;

(iii) The petitioner shall furnish an undertaking to produce the Gumati/shop before the confiscating authority as and when required;



(iv) Prior to release of the Gumati/shop, a Panchnama would be prepared by the court below wherein the photograph of the Gumati/shop shall be taken and will be certified by the petitioner and the same shall be kept on record so that in future if so required it may be used as a secondary evidence. The petitioner shall undertake not to challenge the said Panchnama in course of trial.

The order shall be passed within a period of 7 days from the submission of the surety-bond and the undertaking as stated above. This would, however, be subject to initiation and finalization of the proceedings, if any.

The application stands disposed of accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Priyanka

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