

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16944 of 2018

=====

Chandan Kumar Sah @ Chandan Kumar Son of Baldeo Sah @ Valadev Sah,
Resident of Manikpur, P.S.- Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna
2. The District Magistrate, Muzaffarpur.
3. The Senior Superintendent of Police, Muzaffarpur.
4. The S.H.O., Saraiya P.S., District- Muzaffarpur.
5. The I.O. of Saraiya P.S. Case No.55/18, Saraiya P.S., District- Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Krishna Kant Singh
For the Respondent/s	:	Mr.Vivek Prasad- GP7

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 04-02-2019

Heard learned counsel for the petitioner and
learned counsel appearing on behalf of the State.

This application has been filed for a Mandamus directing the State respondents to release/unseal the Hotel of the petitioner sealed in connection with Saraiya P.S. Case No. 55 of 2018 registered under sections 272, 273 of the Indian Penal Code and 30(a), 38, 41 of the Bihar Prohibition and Excise Act. The seizure list shows recovery of 360 ml. I.M.F.L.

Learned counsel for the petitioner submits that



petitioner is the owner of the Hotel in question and the same is the sole source of his livelihood. It is also submitted that the confiscation proceeding has not yet been initiated.

Learned counsel for the State is present and submits that in the given facts and circumstances of this case if at all the Court is willing to consider provisional unsealing of the house, then the interest of the State is required to be protected.

Considering the facts and circumstances of the case where it is said to be a hotel under seizure for more than six months, which is the only source of livelihood of the petitioner, 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 initiation and disposal of the confiscation proceeding, the Hotel of the petitioner in question be provisionally unsealed and possession be handed over to the petitioner on the petitioner's depositing the original documents with regard to the Hotel 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 documents with



regard to hotel in question with the surety, the hotel of the petitioner shall be unsealed and possession be handed over within one week thereof. The original documents deposited by the petitioner shall be kept in safe custody of the Confiscating Authority.

The owner of the hotel shall undertake that during the pendency of the confiscation proceeding, he will not deal with the property in question and shall not create any third party interest whatsoever.

The application is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/mcv-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.02.2019
Transmission Date	NA

