

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16956 of 2018

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Shambhu Modi @ Shambhu Kumar Modi Son of Pradeep Modi, resident of
Teliyahat, P.S.- Salkhua Banma Itahari O.P., District- Saharsa Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Registration, Prohibition and Excise, Government of Bihar, Patna
2. The Collector-cum-District Magistrate, Saharsa, District- Saharsa Bihar.
3. The Sub Divisional Magistrate, Simri Bakhtiyarpur, Saharsa, District- Saharsa Bihar.
4. The Circle Officer, Banma Itahari, District- Saharsa Bihar.
5. The Block Development Officer, Banma Itahari, District- Saharsa Bihar.
6. The Excise Superintendent, Saharsa, District- Saharsa Bihar.
7. The Superintendent of Police, Saharsa, District- Saharsa Bihar.
8. The Station House Officer, Salkhua Police Station, District- Saharsa Bihar.

... .. Respondent/s

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Appearance :

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

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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 Fertilizer/Khad Beej Godown of the petitioner sealed in connection with Salkhua (Banma Itahari) P.S. Case No. 118 of 2018 registered under section 30(a) of the Bihar Prohibition and Excise Act. The seizure list shows recovery of 5.25 Liters



of IMFL.

Learned counsel for the petitioner submits that petitioner is the owner of the Godown 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 Fertilizer Godown 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 Godown 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 Godown in question as security with one surety to the extent of value of



the property as per the circle rate with the District Magistrate, Saharsa. On submission of the original documents with regard to Godown in question with the surety, the Godown 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 Godown 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)

mcv/shailendra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.02.2019
Transmission Date	NA

