

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.278 of 2019

=====

Sarun Kumar Sharma, S/o Heeralal Sharma, R/o Village-Raja Bazar Chauk
Bihiya, Ward No.8, House No. 326, P.S.-Bihiya, District-Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar, through Chief Secretary, Bihar, Patna.
2. Principal Secretary, Home, Bihar, Patna.
3. Excise Commissioner, Bihar, Patna.
4. D.M., Bhojpur, Bihar.
5. S.P., Bhojpur.
6. S.H.O., Bihiya P.S.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Rina Sinha, Advocate
For the Respondent/s : Mr.Vivek Prasad, GP-7

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 03-05-2019

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 rented shop near
the house of the petitioner sealed in connection with Bihiya P.S.
Case No. 233 of 2018 registered under Sections 30(a) of the
Bihar Prohibition and Excise Act. The seizure list shows recovery
of 2.340 liters of IMFL.

Learned counsel for the petitioner submits that the



house in question is a joint family property of the petitioner. The seizure list shows recovery of 2.340 liters of IMFL from the rented shop of the petitioner. It is also submitted that the confiscation proceeding for the property in question is pending.

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 rented shop then the interest of the State is required to be protected.

Having heard learned counsel for the parties and considering the facts and circumstance of the case where it is said to be a rented shop under the seizure of more than six months years 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 finalization of confiscation proceeding the rented shop of the petitioner be provisionally de-sealed and possession be handed over to the petitioner by the Confiscating Authority, on the petitioner's depositing the original title deed of the property in question as security with one surety to the extent of value of the property as per the circle rate with him.

The owner of the property shall give an undertaking



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.

On submission of the original title deed of the property in question together with the surety and the undertaking as mentioned above, the rented shop in question shall be de-sealed and possession be handed over within a fortnight thereafter. The title deed deposited by the petitioner shall be kept in safe custody of the Confiscating Authority and shall be subject to outcome in the confiscation proceeding.

The writ petition is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

amit/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.05.2019
Transmission Date	N/A

