

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1915 of 2019

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Bhikha Sah @ Bhikhan Birju Sah, son of Bhirju Sah, resident of Village-Parasi, P.S.- Khaira, District- Jamui. But at the relevant time at present Resident of Central Hotel Highway Road Shashtri Nagar, Vikparle R and T Colony, Mumbai (Maharashtra)

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Excise Department, Bihar, Patna.
2. The Principal Secretary, Excise Department, Bihar, Patna.
3. The District Magistrate, Jamui.
4. The Superintendent of Police, Jamui.
5. The Officer in Charge Police Station Khaira, Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Adv.
For the Respondent/s : Mr. Anil Kumar Sinha, GA-1.

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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 house
of the petitioner sealed in connection with Khaira P.S. Case
No.93/18 registered under sections 30(a)/38(i) of the Bihar
Excise & Prohibition Act, 2016. The seizure list shows
recovery of 30 liters of country made liquor.

Learned counsel for the petitioner submits that as



per the allegation, 30 liters of country made liquor have been recovered from the house. It is submitted that the confiscation proceeding for the property is yet to be initiated.

Having heard learned counsel for the parties and considering the facts and circumstances of the case where it is said to be a residential house under the seizure of more than eleven months 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 house of the petitioner be provisionally de-sealed and possession be handed over to the petitioner 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 the District Magistrate, Jamui. On submission of the original title deed of the property in question with the surety, the house shall be de-sealed and possession be handed over within 14 days thereof. The title deed deposited by the petitioner shall be kept in safe custody of



the Confiscating Authority.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Anjula/Skpathak

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.02.2019
Transmission Date	NA

