

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4245 of 2019

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Raja Kumar aged about 21 years, Son of Jagan Ray, Resident of Village-
Bishunpura, P.S. Jalalpur, District-Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the Excise Commissioner, Bihar, Patna.
2. The Collector, Saran, Chapra.
3. The Officer-in-charge Jalalpur Police Station, Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Mishra
For the Respondent/s	:	Mr. Vivek Prasad (GP7)

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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 : 12-03-2019

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 shop of the
petitioner sealed in connection with Jalalpur P.S. Case No. 173
of 2017 registered under sections 30(a) of the Bihar Prohibition
and Excise Act. The seizure list shows recovery of 41.400 liters
of I.M.F.L.

Learned counsel for the petitioner submits that
petitioner is owner of the shop, which was let out for the



purpose 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 residential house under seizure for more than one and half years and the petitioner is ready to furnishing 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 shop of the petitioner in question be unsealed 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 designated Court below.

The owner of the property shall give an undertaking that she will not deal with the property in question and shall not create any third party interest whatsoever in the



meanwhile.

On submission of the original title deed of the property in question together with the surety and the undertaking as mentioned above, the 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 Court below.

The application is allowed with the observations and directions set out hereinabove.

(Jyoti Saran, J)

(Arvind Srivastava, J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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