

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3644 of 2019

Suchen Yadav aged about 30 years, Male, Son of Satya Narain Yadav R/o
Village- Dighiya, P.S. Saharsa Sadar, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise and Custom, Govt. of Bihar, Patna
2. The District Magistrate, Saharsa.
3. The Superintendent of Police, Saharsa.
4. The Officer-in-Charge, Saharsa Sadar, Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bidhan Chandra Jha
For the Respondent/s : Mr. Anil Kumar Sinha (GA1)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 29-03-2019

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 house of the petitioner sealed in connection with Confiscation (Excise) Case No. 170 of 2018-19 registered under sections 30(a), 38(i) and 41(i) of the Bihar Prohibition and Excise Act. The seizure list shows recovery of 630 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 630 liters of IMFL from the house of the petitioner. Learned counsel further submits that the confiscation proceeding 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 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 four months 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 house 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 District Magistrate, Saharsa.

The owner of the property shall give an



undertaking that he 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 house 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 proceedings.

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
Uploading Date	12/04/2019
Transmission Date	NA

