

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16488 of 2018

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Savita Devi @ Savita Sinha, W/o Bindeshwari Prasad Singh, Resident of Mohalla-Tilka Manjhi Hatiya Road, P.S.-Tilaka Manjhi, District-Bhagalpur at Present Resident of Village-Gohar, P.O.-Channo, P.S. Rasalpur Kahalgaon District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar.
2. The District Magistrate-cum-Collector, Bhagalpur.
3. The Assistance Excise Commissioner, Bhagalpur.
4. The Superintendent of Excise, Bhagalpur.
5. The Superintendent of Police, Bhagalpur.
6. The Officer In-Charge of Kotwali P.S. District-Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Kumar Mishra
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 : 28-01-2019

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 Kotwali P.S. Case No.

71 of 2017 registered under sections 30(a) and 38(b) of the

Bihar Prohibition and Excise Act. The seizure list shows

recovery of 54 liters of country made foreign liquor.



Learned counsel for the petitioner submits that petitioner is owner of the shop, which was let out to Md. Rijwan situated at Ward No. 32, Hatia Road, Bank Colony, P.S. Tilkamanjhi, District- Bhagalpur for the purpose of her 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 District Magistrate, Bhagalpur.

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 Confiscating Authority.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/

AFR/NAFR	NAFR
CAV DATE	N/A
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