

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17675 of 2018

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Triveni Sharma, Son of Shyamdev Vishwakarma, Resident of Mohalla-Hajiganj, Kaimashikoh, P.S. Chowk, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, New Secretariat, Patna.
2. The Collector-Cum-District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The Officer-in-Charge, Chowk Police Station, Patna City, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Shekhar Sharma
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 : 01-04-2019

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 room (Garage) of the petitioner sealed in connection with Chowk P.S. Case No. 113 of 2017 in Special Case No. 1059 of 2017 registered under Sections 30(a) and 37(a) of the Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner in reference to



the First Information Report submits that the 400 ml. of liquor has been recovered from the room (Garage) of the petitioner. Petitioner is the *bona fide* owner of the property in question. Further submission is that the confiscation proceeding has already been initiated in this case.

Learned counsel appearing on behalf of the State submits that in the given facts and circumstances of this case if at all the Court is willing to consider provisional unsealing of the room (Garage) 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 room (Garage) under seizure for more than one and half 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 initiation and disposal of the confiscation proceeding, the room (Garage) 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 the value of the property as per the circle rate before the Collector-cum-District Magistrate, Patna.



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 (Garage) 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
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