

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4470 of 2019

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Mukesh Kumar Chaudhary @ Mukesh Chaudhary aged about 27 years (M),
Son of late Dudhnath Chaudhary, Resident of Village- Samsudinpur, Police
Station- Revilganj, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The Collector-Cum- District Magistrate, Saran at Chapra.
3. The Superintendent of Police, Gaya.
4. Officer In-charge, Revilganj, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Srivastva
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 : 14-03-2019

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 along
with room of the petitioner sealed in connection with Revilganj
P.S. Case No. 390 of 2018 registered under Sections 272, 273 of
the Indian Penal Code and sections 30(a) of the Bihar
Prohibition and Excise Act.

Learned counsel for the petitioner submits that



the seizure list shows recovery of 5 liters of Country liquor and 720 ml. of IMFL from the shop of the petitioner. Further submission is that the confiscation proceeding has not yet been initiated.

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 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 shop under seizure for more than two 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 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 the value of the property as per the circle rate before the designated Court below.

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 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
Uploading Date	26.03.2019
Transmission Date	NA

