

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4159 of 2019

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Geeta Prakash (Female), aged about 55 years, Wife of Jai Prakash Kumar,
Resident of Mohalla- Ward No. 17, Main Road, Chandiri Store, Sitamarhi,
Aabadepur, Sitamarhi Bazar, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar
2. District Magistrate, Sitamarhi, District Sitamarhi.
3. Superintendent of Police, District- Sitamarhi.
4. S.H.O. Sitamarhi, P.S. and District- Sitamarhi.
5. A.S.I. Sitamarhi, P.S. and District- Sitamarhi.
6. Excise Superintendent, Distt.- Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nirmal Kumar Sinha 3, Advocate
For the Respondent/s : Mr. Kumar Manish (SC5)

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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 : 11-03-2019

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 room of the
petitioner sealed in connection with Sadar P.S. Case No. 1036 of
2017 registered under sections 272/273 of the Indian Penal
Code and Section 30(a) of the Bihar Prohibition and Excise Act.
The seizure list shows recovery of 180 ml. IMFL.



Learned counsel for the petitioner submits that petitioner is the owner of Rajpati Hotel situated at Gandhi Chowk, Prakash Market, P.S. and District- Sitamarhi and Room no. 105 was let out to one Ajay Kumar Singh for the purpose of livelihood. It is also submitted 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 room 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 six 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 room 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, Sitamarhi.



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 room 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 District Magistrate, Sitamarhi.

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
Uploading Date	28.03.2019
Transmission Date	N/A

