

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4215 of 2019

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Pankaj Choudhary @ Dasai @ Pankaj Kumar aged about 37 years (M), Son of Bilakshan @ Rambilakshan Choudhary, Resident of village-Behta, Ward No.3, Choraut, P.S. Pupri, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home (Police) Department of Bihar, Patna.
2. The Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The District Magistrate, Sitamarhi.
5. The S.H.O., Pupri Police Station, District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr .Ashhar Mustafa
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 : 12-03-2019

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 Pupri P.S. Case No. 523 of 2018 registered under Sections 272, 273 of the Indian Penal Code and sections 30(a),38 and 41 of the Bihar Prohibition and Excise Act.



Learned counsel for the petitioner submits that the seizure list shows recovery of 12 liters of IMFL from the house and 524.400 liters of Nepali Saufi from the backyard of the house of the petitioner. He is the *bona fide* owner of the seized house in question. Further submission is that the confiscation proceeding has already 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 residential house under seizure for more than one year 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 District



Magistrate, Sitamarhi.

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 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	NA
Uploading Date	02.04.2019
Transmission Date	NA

