

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4303 of 2019

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Panna Devi, aged about 65 jyears (Female), W/o Late Suresh Rajak, Resident of Village- Ward No. 1, Rupani, P.S.- Chouthan, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department at Patna.
2. The Divisional Commissioner, Munger Divisiona at Munger.
3. The Collector, District of Khagaria at Khagaria.
4. The Superintendent of Police, District Khagaria at Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate
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 : 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 shop of the petitioner sealed in connection with Chautham P.S. Case No. 176 of 2018 registered under section 30(a) of the Bihar Prohibition and Excise Act. The seizure list shows recovery of 2 liters of Cough Syrup.

Learned counsel for the petitioner submits that for



recovery of 2 liters of Cough Syrup, the shop in question has been seized because according to the respondent, it is capable of being used as a substitute for an intoxicant. It is submitted that there is no information about confiscation proceeding.

Learned counsel for the State has not been able to clarify that whether or not the cough syrup so seized comes in the prohibited category of intoxicant or spirit or liquor or fermented liquor or illicit liquor under the Bihar Prohibition and Excise Act, 2016.

Having heard learned counsel for the parties and considering the facts and circumstances of the case where it is said to be a shop under the seizure of more than six 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 finalization of confiscation proceeding the shop of the petitioner be provisionally de-sealed 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 designated Court below. On submission of the



original title deed of the property in question with the surety, the shop shall be de-sealed and possession be handed over within 14 days thereof. The title deed deposited by the petitioner shall be kept in safe custody of the designated Court below.

The owner of the property shall undertake that during the pendency of the confiscation proceeding, he will not deal with the property in question and shall not create any third party interest whatsoever.

The writ petition is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Nasimul/Shailendra

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03-04-2019
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