

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6694 of 2019

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Dinesh Chaudhary, Male, aged about 46 years, S/o Late Laxmi Chaudhary,
R/o Sonapatti, Ward No. 14, P.S. Bairstania, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
3. The Collector-Cum- District Magistrate, Sitamarhi.
4. The Superintendent of Excise, Sitamarhi.
5. The Superintendent of Police, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh, Advocate
For the Respondent/s : Mr.Vikash Kumar (SC11)

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 14-05-2019

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 Bairstania P.S. Case No. 03 of 2019 registered under sections 272/273 of the Indian Penal Code and for the offence punishable under section 30(A) of the Bihar Prohibition and Excise Act. The seizure list shows recovery of 3.9 liters of Nepali liquor.



Learned counsel for the petitioner submits that the shop in question is a joint family property of the petitioner. The seizure list shows recovery of 3.9 liters of Nepali country made liquor from the shop of the petitioner. It is also submitted that the confiscation proceeding for the property in question 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 shop then the interest of the State is required to be protected.

Having heard learned counsel for the parties and considering the facts and circumstance of the case where it is said to be a shop under the seizure of more than four 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 confiscating authority.



The owner of the property shall give an undertaking 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.

On submission of the original title deed of the property in question together with the surety and the undertaking as mentioned above, the shop 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 proceeding.

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

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Nasimul/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22-05-2019
Transmission Date	N/A

