

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5452 of 2019

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Amod Kumar Ojha, S/o Sri Ramayan Ojha aged about 34 years, Male, R/o
Village-Amahi Banke, P.S.-Kateya, District-Gopalganj

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Rai
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 : 12-04-2019

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 Kateya P.S. Case No. 359 of
2018 registered under section 30(a) and 36 of the Bihar
Prohibition and Excise Act.

Learned counsel for the petitioner submits that
the shop in question is a joint family property of the petitioner.



He has no concern at all with the alleged occurrence. He further submits that petitioner is ready to furnish adequate security for unsealing of his property in question. He also submits that for the alleged recovery of 1.440 liters of IMFL, the confiscation proceeding for the property in question is yet to be initiated.

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 hotel 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 the designated Court below that pending finalization of confiscation proceeding, the shop of the petitioner be provisionally unsealed and possession be handed over to him 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.

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 unsealed and possession be handed over within a fortnight thereafter. The title deed deposited by the petitioner shall be kept in safe custody of the designated Court below and shall be subject to outcome in the confiscation proceeding.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.04.2019
Transmission Date	NA

