

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5668 of 2019

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Sunil Kumar @ Sunil Yadav, (M), aged about 35 years, Son of Tej Narayan Yadav @ Tejo Yadav, resident of Village- Bhirkhi, Ward No. 23, P.S.- Madhepura, District- Madhepura.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dr. Sanjay Kumar Singh, Advocate
For the Respondent/s : Mr.Kumar Manish (SC 5)

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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 : 19-04-2019

Heard learned counsel for the petitioners 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 and Mobile phone of the petitioner sealed in connection with Excise Case No. 26 of 2018 registered under Section 30(a) of the Bihar Prohibition and Excise Act. The seizure list shows recovery of 3.200 liters of country liquor.



Learned counsel for the petitioner submits that the house in question is a joint family property of the petitioner. The seizure list shows recovery of 3.200 liters of country liquor from the house 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 house then the interest of the State is required to be protected.

Having heard learned counsel for the parties and considering the facts and circumstances of the case where it is said to be a shop and Mobile phone under the seizure of more than eight 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 and Mobile phone 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 District Magistrate-cum-Collector, Madhepura.



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 and Mobile phone 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	24-04-2019
Transmission Date	N/A

