

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7551 of 2019

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Manish Kumar Chaudhary, S/o Dev Narayan Chaudhary @ Deva Chaudhary
Resident of Village- Nirmali, Ward No. 5 Chabal Mandi Road, Police Station-
Nirmali, District- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Excise Department, Government of Bihar, Patna.
2. The Excise Commissioner, Government of Bihar, Patna.
3. The District Magistrate Supaul.
4. The Superintendent of Police Supaul.
5. The Excise Superintendent Supaul.
6. The Station House Officer, P.S.- Nirmali, District- Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lakshmindra Kumar Yadav, Adv.
For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 28-06-2019

Heard the parties.

The petitioner prays for issuance of a writ in the nature of mandamus to command the respondent authorities in the Excise Department to release cash of Rs.4820/- which has been recovered from the petitioner on institution of Nirmali P.S. Case No.138 of 2018 for the alleged violation of the provisions of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act') on recovery of 29.700 litres of Indian Made Foreign Liquor



from the room in question which is situated at Village Nirmali, Ward No.10 in the district of Supaul.

The petitioner also makes a prayer for release of the room which was taken by him on rent from Sonu Tatiya, son of Late Kamal Tatiya, resident of Village Nirmali, Ward No.10, P.S. Nirmali in the district of Supaul.

Bearing note of the recovery of liquor from the room in question and the fact that the petitioner is only a tenant in the said room and since the orders passed by this Court on the issue of release of premises requires the owner of the premises to produce the original title deed the relief in so far as the release of room is concerned cannot be allowed on the prayer made by the petitioner and should the owner of the room come forward by filing a proper writ petition, the same would be considered independently.

However, in so far as recovery of cash of Rs.4820/- is concerned, we take note of the items which are liable for confiscation as listed at paragraph 56 of 'the Act' and find no enabling jurisdiction in the authorities to seize the cash from any accused under 'the Act'.

Since the counsel for the petitioner informs that the confiscation proceeding is yet to be initiated we direct the designated court below within the Judgeship of Supaul to ensure



release of cash of Rs.4820/- in favour of the petitioner within a period of 14 days of receipt/production of a copy of this judgment.

The writ petition is allowed to the extent above.

(Jyoti Saran, J)

(Partha Sarthy, J)

skpathak/-

AFR/NAFR	NAFR
CAV DATE	NA
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