

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8176 of 2019

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Jitendra Kumar Upadhyay alias Jitendra Upadhyay, S/o Late Shiv Shankar Upadhyaya, Resident of Mohalla- Upadhyay Tola, Rajgir, P.S. Rajgir, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate, Nalanda
3. Superintendent of Police, Nalanda
4. The Station House Officer, P.S. Rajgir, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rudal Singh, Adv.
For the Respondent/s : Mr. Vikash Kumar, SC-11

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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 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 room of the petitioner bearing Rom No.209 of Hotel Kanak Vihar, Bus Stand, Rajgir, District -Nalanda sealed in connection with Rajgir P.S. Case No.156 of 2018 registered under section 30(a) of the Bihar Prohibition and Excise Act, 2016.

Learned counsel for the petitioner submits that as per the allegation, 325 ml. of Indian Made Foreign Liquor have been recovered from the said room. It is submitted that the confiscation proceeding for the property is yet to be initiated.



Considering the facts and circumstances of the case where it is said to be a hotel under the seizure of almost a year 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 room no.209 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 room shall be de-sealed and possession be handed over within one week 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 application is allowed to the extent as stated hereinabove.

(Jyoti Saran, J)

(Partha Sarthy, J)

skpathak/-

AFR/NAFR	NAFR
CAV DATE	NA
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