

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9706 of 2019

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Krishna Kumar Sah @ Krishna Kumar Kamal Son of Babu Lal Gupta,
Resident of Village- Mothh Parsahi, P.S.- Khutauna, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Superintendent of Police, Madhubani.
4. The Station House Officer Khutauna, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gagan Deo Yadav
For the Respondent/s : Mr.Kumar Manish (Sc5)

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

Date : 23-07-2019

Counter affidavit on behalf of respondent no. 3 is
being filed today, let it be kept on record.

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 house of the petitioner
situated over Khutauna Station Road, P.S. Khutauna, District-
Madhubani sealed in connection with Khutauna P.S. Case No. 37
of 2018 registered under sections 272 and 273 of the Indian Penal



Code and Sections 30(a), 38(i) (2) of the Bihar Prohibition and Excise Act, 2016.

Although learned counsel for the petitioner submits that as per the allegation, Nepali wine have been recovered from a motorcycle, belonging to the friends of the tenant of the petitioner, and the said motorcycle was parked under the house premises of the petitioner but the seizure list confirms recovery of 45 litres of Nepali liquor from the premises. 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 residential house under the seizure of more than 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 house 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 house 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)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07/08/19
Transmission Date	NA

