

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18251 of 2018

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Surendra Prasad Singh, Son of Late Ram Lakhan Singh, Resident of Village-
Rajendranagar, Ward No.20, P.S.- Khagaria, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate cum Collector, Khagaria.
3. S.D.O., Khagaria.
4. The Officer In-charge, Khagaria 'Chitraguptanagar', P.S. Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jai Kishor Poddar, Advocate
For the Respondent/s : Mr. Vivek Prasad- GP7

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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 : 11-03-2019

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 house of the
petitioner sealed in connection with Khagaria
(Chitraguptanagar) P.S. Case No. 567 of 2017 registered under
sections 30(a) and 38 of the Bihar Prohibition and Excise Act.
The seizure list shows recovery of 10.125 liters IMFL.

Learned counsel for the petitioner submits that



petitioner is the owner of the residential house. It is also submitted that the confiscation proceeding 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.

Considering the facts and circumstances of the case where it is said to be a residential house under seizure for more than one and half years and the petitioner is ready to furnishing adequate security to safeguard the interest of the State, following the consistent views of the Division Bench of this Court, we direct that pending initiation and disposal of the confiscation proceeding, the shop of the petitioner in question be unsealed 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, Khagaria.

The owner of the property shall give an undertaking that she will not deal with the property in question and shall not create any third party interest whatsoever in the meanwhile.

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 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 District Magistrate-cum-Collector, Khagaria and shall be subject to final outcome in the confiscation proceedings.

The application is allowed with the observations and directions set out hereinabove.

(Jyoti Saran, J)

(Arvind Srivastava, J)

shailendra/-

AFR/NAFR	NAFR
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