

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21683 of 2018

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Rajnish Prasad @ Badmas, S/o Laxmi Bhagat, R/o Village-Siyari Khurd, P.S.-
Barharai, District-Siwan.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Rai
For the Respondent/s : Mr. Anil Kumar Sinha - GA1

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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 : 15-04-2019

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 (Bathan) and Poultry Farm of the petitioner sealed in connection with Barharia P.S. Case No. 422 of 2017 registered under Sections 272, 273, 308/34 of the Indian Penal Code and sections 35(a)/35(b)/36/41(i) of the Bihar Prohibition and Excise Act, 2016.



Learned counsel for the petitioner submits that the 129.9 liter of IMFL has been recovered from the house (*Bathan*) and Poultry Farm of the petitioner. Petitioner is the *bona fide* owner of the property in question. Further submission is that for the alleged recovery, confiscation proceeding is yet to be initiated.

Learned counsel appearing on behalf of the State 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 (*Bathan*) and Poultry Farm 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 house (*Bathan*) and Poultry Farm under seizure for more than one and half years 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 the designated Court below that pending initiation and disposal of the confiscation proceeding, the house (*Bathan*) and Poultry Farm 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 the value of



the property as per the circle rate.

The owner of the property shall give an undertaking that he 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 house (*Bathan*) and Poultry Farm 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 Court below and shall be subject to 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
CAV DATE	NA
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