

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1438 of 2019

=====

Sanjay Rai @ Sanjay Kumar Ray, son of Baliram Ray Resident of Mohalla-
Municipal Chowk, P.S. - Town Chapra, District- Saran.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna
2. The Collector-Cum-District Magistrate Saran , Chapra
3. Superintendent of Police Saran, Chapra
4. The Excise Superintendent Saran, Chapra
5. The Sub -Divisional officer Chapra, Saran
6. The Station House Officer, Chapra Town, Saran

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr. Harish Kumar
For the Respondent/s : Mr. Vivek Prasad (Gp7)

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 17-05-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

This application has been filed for a mandamus directing
the State respondents to release/ unseal the petitioner's dwelling
house sealed in connection with Chapra Town P.S. Case No.
211/2017 registered under Section 30(a) of the Bihar Prohibition
and Excise Act, 2016.

Apart from a prayer of unsealing the house the
petitioner has also prayed for quashing of the order dated



02.06.2017 passed by the District Magistrate, Saran at Chapra in Confiscation Case No. 25/2017 by which a direction to confiscate the house has been passed by the District Magistrate being the Confiscating Authority.

Learned Counsel for the petitioner submits that for the present he would not be pressing the relief for quashing of the order dated 02.06.2017 passed by the District Magistrate, Saran in Confiscation Case No. 25/2017, he, however, submits that liberty may be granted to the petitioner to challenge the confiscation order in an appropriate jurisdiction by filing an appeal before the Commissioner within a period of 30 days from today.

In the circumstances noted where final orders have been passed in the confiscation proceedings, we grant liberty to the petitioner to challenge the order of confiscation before the appellate authority within a period of 30 days from today. In case such an appeal is preferred within the aforesaid period together with an application for condonation of delay, the appellate authority shall consider the same keeping in mind that the petitioner was prosecuting his remedy before this Court and the appeal shall be heard on its own merits and disposed of expeditiously.



Considering the facts and circumstances of the case where it is said to be a dwelling house under the seizure for two 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 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 District Magistrate, Saran. 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 petitioners shall be kept in safe custody of the Confiscating Authority.

The owner of the property shall undertake that during the pendency of the confiscation proceeding, they will not deal with the property in question and shall not create any third party interest whatsoever.

If the petitioners fail to present an appeal within 30 days as given above, the order of provisional release shall stand



withdrawn and the Confiscating Authority shall be at liberty to proceed in accordance with law.

The writ petition is allowed with the directions/observations above.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.06.2019
Transmission Date	NA

