

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18274 of 2018

Sanjay Kumar, aged about 35 years, Son of Shyam Yadav, Resident of Village-Jaganpura, P.S.-Ram Krishna Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Excise, Government of Bihar, New Secretariat, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Collector Cum District Magistrate, Patna.
4. The Superintendent of Police, Patna.
5. The Deputy Superintendent of Police, Patna Sadar.
6. The Officer-in-Charge, Ram Krishna Nagar, Patna.
7. The Excise Inspector, Phulwari Sharif, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prakash Ranjan Sinha, Advocate
For the Respondent/s	:	Mr. Kumar Manish -SC5

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-cum-room of the petitioner sealed in connection with Ram Krishna Nagar P.S. Case No. 351 of 2017 dated 17.11.2017 registered under Sections 30(a), (b), 38 and 41 of the Bihar Prohibition and Excise Act.



Learned counsel for the petitioner submits that the seizure list shows recovery of 21 liters of IMFL from the house-cum-room of the petitioner. He is the bona fide owner of the house in question. Further submission is that that he has no information about the initiation of confiscation proceeding.

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-cum-room 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 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 initiation and disposal of the confiscation proceeding, the house-cum-room 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 before the designated Court below.



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-cum-room 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 designated Court below.

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

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	N/A

