

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3363 of 2018

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Ravi Patel Son of Late Prabhat Patel, R/o East Chowk, Baisi, P.S.- Baisi,
District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Collector, Purnea.
3. The Deputy Collector, Incharge, District Law Section, Purnea.
4. The Assistant Excise Commissioner, Purnea.
5. The Superintendent of Excise, Purnea.
6. The Superintendent of Police, Purnea.
7. The Station House Officer of Baisi, Police Station, District- Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dr. Bidhu Ranjan
For the Respondent/s : Mr.Kumar Manish- SC5

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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 : 25-02-2019

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



bathroom/house of the petitioner situated at Panisadra, Thana No. 371, Khata No. 124, Khesra No. 265 measuring 615 Square Kari, which has been sealed in connection with Baisi P.S. Case No. 173 of 2016 registered under the provisions of the Bihar Prohibition and Excise Act for the alleged recovery of 2 liters 200 ml. of IMFL

Apart from a prayer for unseal of the house in question, the petitioner has also prayed for quashing of the order dated 17.10.2017 passed by the Collector-cum-District Magistrate, Purnea in connection with Excise Case No. 183 of 2017, by which a direction to confiscate the house in question has been passed.

Learned counsel for the petitioner submits that for the present, he would not be pressing the order dated 17.10.2017 passed by the Collector-cum-District Magistrate, Purnea (Respondent No.2) in connection with Excise Case No. 183 of 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 view of the circumstances discussed above, 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 accompanied 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 merit and disposed of expeditiously.

Learned counsel for the petitioner, at this stage, submits that because the appellate authority has no power to pass an interim order for unsealing the house, he would press this application for a provisional unseal of the house in question.

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 release of the house then 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 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 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 Collector-cum-District Magistrate, Purnea. 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 Confiscating Authority.

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.

It goes without saying that should the petitioner fail to make avail of the liberty granted by us and to file an appeal within the period of 30 days as stipulated above, the interim relief granted by us shall stand recalled and the confiscating authority shall be at liberty to proceed in accordance with law.



The application is allowed to the extent as stated
hereinabove.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.03.2019
Transmission Date	N/A

