

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4179 of 2019

Arising Out of PS. Case No.-78 Year-2018 Thana- NAANPUR District- Sitamarhi

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Naseem Akhtar @ Shameem Akhtar Mohammad Jameel Akhtar Resident of
Village- Kauriya Raipur, Police Station- Nanpur, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary(Dept. of prohibition and Excise) and ORS Department of Prohibition and Excise, Vikash Bhawan, Bailey Road, Patna- 800001.
2. The Principal Secretary Department of Prohibition and Excise, Vikas Bhawan, Bailey Road, Patna-800001.
3. The Collector-cum-District Magistrate, Sitamarhi
4. The Officer-in-Charge, Nanpur Police Station, District- Sitamarhi.
5. Md. Shafiq, Sub-Inspector of Police -cum-Investigating Officer, Nanpur Police Station, District-Sitamarhi

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Navendu Kumar
For the Respondent/s : Mr.Kumar Manish

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 02-07-2019

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 godown situated in
village Koudia, P.S. Nanpur., in the District of Sitamarhi sealed in
connection with Nanpur P.S. Case No. 78 of 2018 registered under
Sections 272 and 273 of the Indian Penal Code and Section 30(a)
of the Bihar Prohibition and Excise Act, 2016.



Apart from a prayer of unsealing the godown, the petitioner has also prayed for quashing of the order dated 25.09.2018 passed by the Collector-cum-District Magistrate, Sitamarhi in Confiscation Case No. 502 of 2018 by which a direction to confiscate the godown has been passed by the District Magistrate being the Confiscating Authority.

Learned Counsel for the petitioner submit that for the present he would not be pressing the relief for quashing of the order dated 25.09.2018 passed by the Collector-cum-District Magistrate, Sitamarhi in Confiscation Case No. 502 of 2018. 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 house under the seizure for more than a year and the petitioner is ready to furnish adequate security to safeguard the interest of the State, following the consistent view of the Division Bench of this Court, we direct that pending finalization of confiscation proceeding the godown of the petitioner be provisionally de-sealed and possession be handed over to the petitioner on the petitioners' 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, Sitamarhi. 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 give undertaking that during the pendency of the appellate proceeding, they will not deal with the property in question and shall not create any third party interest whatsoever.



If the petitioner 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)

(Partha Sarthy, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.7.2019
Transmission Date	NA

