

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.24939 of 2018**

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Chinta Devi, W/o Anant Sah, R/o Village- Sundar Nagar, Mehsaul O.P. ward  
no.-1, P.S. - Sitamarhi, Distt.- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,  
Patna, Bihar.
2. The Collector/District Magistrate, Sitamarhi
3. The Superintendent of Police, Sitamarhi
4. The Excise Superintendent, Sitamarhi
5. The Excise Inspector, Sitamarhi
6. The Officer -in-Charge, Sitamarhi P.S. (Mehsaul O.P) P.S., Distt.- Sitamarhi

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Arjun Prasad, Advocate  
For the Respondent/s : Mr.

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

**Date : 29-04-2019**

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 of  
the petitioner sealed in connection with Sitamarhi P.S.  
(Mehsaul O.P.) Case No. 750 of 2017 registered under sections  
272/273 of the Indian Penal Code and for the offence  
punishable under section 30(A) of the Bihar Prohibition and



Excise Act. The seizure list shows recovery of 26.5 liters of IMFL.

Learned counsel for the petitioner submits that the house in question is a joint family property of the petitioner. The seizure list shows recovery of 26.5 liters of IMFL from the house of the petitioner. It is also submitted that the confiscation proceeding for the property in question is pending.

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 unsealing of the house then the interest of the State is required to be protected.

Having heard learned counsel for the parties and considering the facts and circumstance of the case where it is said to be a residential house under the seizure of 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 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, Sitamarhi .

The owner of the property shall give an undertaking 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.

On submission of the original title deed of the property in question together with the surety and the undertaking as mentioned above, the house 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 Confiscating Authority and shall be subject to outcome in the confiscation proceeding.

The writ petition is allowed to the extent as stated hereinabove.

**(Jyoti Saran, J)**

**( Anjani Kumar Sharan, J)**

Nasimul/-

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