

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5506 of 2020

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Chandan Kumar Son of Ramesh Singh, resident of Village-Fatehpur, P.S.-
Didarganj, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Sub-Inspector of Police, Police Station Didarganj, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Bihari Singh
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 12-08-2020

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

“This writ application is being filed for issuance of a writ in the nature of mandamus for direction to respondent authorities to release the account of Chandan Kumar (petitioner) which has been seized by the police in connection with Didarganj P.S. Case No.07/17 Special Case No.200/17 U/s 30(a), 36 of Bihar Prohibition and Excise Act, 2016 and give other appropriate relief/reliefs to which the petitioner is found



entitled in the facts and circumstances of the present case.”

Learned counsel for the respondents has placed reliance upon a judgment of Hon’ble Supreme Court in case of Teesta Atul Setalvad versus State of Gujaarat along with analogous cases since reported in (2018) 2 Supreme Court Cases 372 in which it has been held by the Apex Court that IO in course of investigation has power to seize or prohibit operation of bank account of any person which may be found under circumstances creating suspicion of commission of any offence. Paragraph nos.5 and 23 are reproduced hereinbelow:-

“5. Be that as it may, the criminal revision applications preferred by the appellants before the High Court of Gujarat, challenging the order dated 28th November, 2014 passed by the Magistrate rejecting the prayer for lifting of the bank account freezing, were finally heard and dismissed vide common judgment dated 6th/7th October, 2015.

This order is the subject matter of the present appeals. In other words, the limited issue to be addressed in the present appeals is about the justness of the action of the Investigating Officer of freezing of stated bank accounts of the appellants in connection with FIR registered as CR No.1/2014; and the correctness of the approach of the Magistrate in rejecting the request for de-freezing the bank accounts of the appellants as affirmed by the High Court vide impugned judgment.

23. Although both sides have adverted to statement of



accounts and vouchers to buttress their respective submissions, we do not deem it necessary nor think it appropriate to analyse the same while considering the matter on hand which emanates from an application preferred by the appellants to de-freeze the stated bank accounts pending investigation of the case. Indisputably, the investigation is still in progress. The appellants will have to explain their position to the investigating agency and after investigation is complete, the matter can proceed further depending on the material gathered during the investigation. The suspicion entertained by the investigating agency as to how the appellants appropriated huge funds, which in fact were meant to be disbursed to the unfortunate victims of 2002 riots will have to be explained by the appellants.

Further, once the investigation is complete and police report is submitted to the concerned Court, it would be open to the appellants to apply for de-freezing of the bank accounts and persuade the concerned Court that the said bank accounts are no more necessary for the purpose of investigation, as provided in sub- Section (3) of Section 102 of the Code. It will be open to the concerned Court to consider that request in accordance with law after hearing the investigating agency, including to impose conditions as may be warranted in the fact situation of the case.

It is submitted on behalf of petitioner that a petition has been filed for release of passbook and cheque book before the learned court below on 21.8.2018 but no order has been passed and petition is still pending.

The writ petition is disposed of with a direction to the



Special Court, Excise, Patna where the special case arising out of Didarganj P.S. Case No.7 of 17 (Special Case No.200 of 17) is pending to decide the petition filed by petitioner within 30 days from date of receipt/production of a copy of order passed by this Court in accordance with law and after hearing both the parties.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.08.2020
Transmission Date	NA

