

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7276 of 2020

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Hasina Khatoon, Wife of Late Tuntun @ Md. Mahtab @ Mahtab Ali,
Resident of Mohalla-Dargah/Dargah Road, Karbla, Chhoti Masjid, P.S.-
Sultanganj, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Govt. of Bihar, Patna.
2. The Senior Superintendent of Police, Patna.
3. The S.H.O. Sultanganj Police Station, District-Patna.
4. The Assistant Sub-Inspector (Informant), Sultanganj Police Station, District-Patna.
5. The Sub-Inspector (I.O.) Sultanganj Police Station, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Adv.
For the Respondent/s : Mr. Vikash Kumar, SC-11.

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

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 28-08-2020

Heard learned counsel for the petitioner and learned
counsel for the respondents.

Petitioner has prayed for the following reliefs:

“For issuance of any appropriate writ(s)/order(s)/directions(s) to the respondents to release/unlock the residential house of the petitioner bearing Sheet No. 123, Khesra No. 1899, part of Circle No. 51 Ward No. 21/51, residential house as well as



shop bearing holding No. 279/181 A, which has seized and sealed by the A.S.I. police of Sultanganj police station (Respt. No. 4) in connection with Sultanganj P. S. Case No. 163 of 2020 dated 10.06.2020, Special Case No. 3864 of 2020, under Section 30 (a) of Bihar Prohibition and Excise Amendment Act 2018, and further necessary direction to the authority concerned to release unlock the residential house as well as shop forthwith, and/or allow other suitable relief(s) in facts and circumstances of the case.”

Informant who is a police officer has alleged in his written complaint that on 10.06.2020 at about 3:00 P.M., he along with other police personnel were conducting raid to nab absconders and persons involved in illicit trade of liquor when he received confidential information that accused Jinna is selling illicit liquor from his house and upon such information he raided the house of Jinna and from a room in the house accused Jinna was arrested and from a bag kept in said room 5.25 litres of illicit foreign liquor was recovered and seized and as he was coming out from the house FIR named accused forcibly freed away Jinna from the custody of police and on such allegations FIR was instituted under different sections of Indian Penal Code as well as Excise Act.



It is submitted on behalf of petitioner that she is owner of premises as well as of the shop which were illegally sealed by the police although nothing was recovered from the house of petitioner and due to enmity and connivance of the police false recovery has been shown and whole premises including the shop which belongs to petitioner has been sealed although even as per FIR recovery of 5.25 litres of foreign liquor has been shown from a room occupied by accused-Jinna, who is son of petitioner and petitioner and other family members have no concern with said recovery of illicit liquor. It has been submitted that till date no confiscation proceeding has been initiated and whole joint family is on roads as whole premises as well as shop has been sealed.

After hearing the counsel for the petitioner as well as counsel for the State it appears that although in the FIR allegation of being indulged in illicit sale of liquor is against accused Jinna and 5.25 illicit litres has been recovered from his room yet whole premises which belongs to petitioner has been sealed and even the shop which was let out by the petitioner for her livelihood was also sealed which *prima facie* shows high-handed and vindictive act of police, as such the premises and the shop of the petitioner is directed to be provisionally unsealed till



conclusion of confiscating proceeding and possession to be handed over to the petitioner, on the petitioner depositing the original title deed of property, in question, as security with one surety to the extent of value of property as per the circle rate with the District Collector, or competent authority, Patna. Petitioner shall also file an undertaking that during pendency of confiscation proceeding, no third party right or interest will be created on the property liable for confiscation.

With the said direction and observation the writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

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

