

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8790 of 2020

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Raghu Poddar @ Raghu Nandan Poddar, Son of Puran Poddar, resident of
Village - Khemichak, Dharani, Ward No. 13, P.S. - Amarpur, District - Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Excise Commissioner, Govt. of Bihar, Patna.
2. The District Magistrate, Banka, District - Banka.
3. The Circle Officer, Amarpur, District - Banka.
4. The Coordinator of Sensitization, Block, Amarpur, District - Banka.
5. The Superintendent of Police, Banka, District - Banka.
6. The Excise Superintendent, Banka, District - Banka.
7. The Inspector cum Station House Officer, Amarpur, District - Banka.

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Prahalad Kumar Bhagat
For the Respondent/s : Mr. Kumar Manish, SC 5

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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 : 05-11-2020

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

Petitioner has prayed for following reliefs:-

“This writ application is being filed on behalf of
the petitioner, for a direction to the respondents to
unseal/release the petitioner’s shop, bounded as North – shop
of Sibbo Sah, South – vacate land of Sibbo Sah, East – Main
Road, West – Sibbo Sah, which has been sealed/seized in
Amarpur P.S Case No.165/20 on 25.03.20 (Spl .Ex. Reg.
No.202/20) for an offence u/s 30(a) of Bihar Prohibition and



Excise Act, 2016 pending in the court of A.D. J. 2nd Banka and stayed the impugned letter bearing Dr. No. 1048A/20 dated 31.03.2020 (Annexure-2).”

Informant is a police officer who has alleged in his written compliant that on 25.3.2020 he received a confidential information that petitioner is engaged in sale of illicit liquor from his welding shop and he brings liquor on a tempo and upon receiving said information, he reached said place and found an old tempo without registration number parked outside the welding shop and on search of tempo, nothing was recovered, but from seat of tempo which was kept in welding shop, illicit liquor was recovered and accordingly, tempo and illicit liquor were seized and seizure memo was prepared, however, since no independent witnesses were present, constables were made witnesses of seizure and seizure memo.

It is submitted on behalf of petitioner that he is owner of the welding shop and nothing was recovered from the shop but his shop has been sealed after one week of alleged recovery made from the seat of tempo for which tempo was seized. He has no concern with the seized tempo and welding shop has been sealed which is the only source of his livelihood. Seizure has been made in violation of provisions as contained in Code of Criminal Procedure. Both against tempo as well as welding shop, confiscation proceeding cannot be initiated for a



single seizure.

In the facts and circumstances of the present case, this writ petition is disposed of with a direction to the Collector / confiscating authority, Banka to provisionally unseal the welding shop of petitioner on being satisfied that petitioner is the owner/title holder of the property under confiscation and the the welding shop of the petitioner shall 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/ confiscating authority, Banka. Petitioner shall also file an undertaking that during pendency of confiscating proceeding, no third party right or interest will be created on the property liable for confiscation.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.11.2020
Transmission Date	NA

