

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)**

Criminal Writ Jurisdiction Case No.2675 of 2018

Arising Out of PS. Case No.-234 Year-2016 Thana- MOUZA HIDPUR District- Bhagalpur

Wakil Choudhary @ Chandramohan Choudhary Son of Chunni Lal Choudhary, Resident of Mohalla- Warsaliganj Road, Near Railway Line, Mirjanhat, P.S.- Mojahidpur, District- Bhagalpur. Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary, Excise Department, Govt. Of Bihar., Old Secretariat, Patna
2. The Divisional Commissioner, Bhagalpur Division, Bhagalpur.
3. The Collector-cum-District Magistrate, Bhagalpur.
4. The Senior Superintendent of Police, Bhagalpur.
5. The Superintendent of Police, Naugachia, Bhagalpur.
6. The Station Head Officer, Bihpur, Bhagalpur.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Navjot Yesu, Advocate
For the Respondent/s : Mr.Kumar Manish SC 5

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 24-09-2020 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner in the present case has moved this writ application for the following reliefs:-

“(a) For issuance of an appropriate writ (s), Order(s) or direction (s) for quashing/Setting aside the Notice of the Ld. Collector, Bhagalpur (Resp. No-3) dated 6.5.2017 passed in Misc (Excise) Case No-10/2017-18 whereby and whereunder he has issued to notice to the petitioner and has asked to file show cause as to why his house bearing Khata No-149, Khesra No-1237. 1238 Rakwa 0.1710 decimal be not confiscated on the ground of black marketing of illegal liquor in terms of the provision of Section 689Ka) and (Ga) of Bihar Excise (Amendment) Act, 2016.

(b) And further for issuance of an appropriate writ(s), order(s) or direction(s) to unseal the aforesaid residential premise of the petitioner forthwith.

(c) And during the pendency of the instant writ application the respondent may be restrained to confiscate the house of the petitioner pursuant to the issuance of Impugned Notice



dated 6.5.2017 (Annexure-10 and further the confiscation proceeding pending before the court of Ld. Collector, Bhagalpur in Misc (Excise) Case No-10/2017-18 may remained stayed.

(d) And/Or pass such other order(s) as your Lordship may deem fit and proper.”

Learned counsel for the petitioner submits that the petitioner has already filed a show cause before the Collector, Bhagalpur in the confiscation proceeding which is still pending. Learned counsel seeks liberty to make an appropriate application before the confiscating authority in the light of the Hon’ble Division Bench judgment of this Court in the case of **Umesh Sah versus State of Bihar and Ors.** reported in **2020 (4) BLJ 566** seeking unsealing of the residential premises of the petitioner.

Learned counsel for the State has no objection to the same.

The operative parts of the Judgment in the case of Umesh Sah (supra) reads as under:-

“9. Without adjudicating the petitioner's petition on merits, we are of the considered view that interest of justice would be best met, if the petition is disposed of in the following terms:-

(a) Since the vehicle in question stands seized in relation to the FIR which stood registered long ago, in case confiscation proceeding has not been initiated, it must be initiated within a period of 15 days from today and that confiscation proceeding stands initiated, we direct the appropriate authority under the Act to forthwith ensure that such proceedings be concluded not later than 30 days.

(b) The petitioner undertakes to make himself



available in the office of the concerned appropriate authority empowered under Section 58 of the Act i.e. District Collector, in his/her office on 04.02.2020 at 10:30 A.M.

(c) We further direct the appropriate authority to positively conclude the confiscation proceeding within next thirty days on appearance of the petitioner. If for whatever reason, such proceeding cannot be concluded, in that event it shall be open for the authority to take such measures, as are permissible in law, for release of the vehicle in question by way of interim measure, on such terms as may be deemed appropriate, considering the attending facts and circumstances of the case.

(d) If eventually, the appropriate authority arrives at a conclusion that the property is not liable to be confiscated, it shall be open for the petitioner to seek damages in accordance with law and have appropriate proceedings initiated against the erring officials/officers.

10. Learned counsel for the petitioner states that the certified copy of the order shall be made available to the concerned District Collector on the date so fixed.

11. For future guidance, where parties have not approached this Court, we issue the following direction:-

12. The expression "reasonable delay" used in Section 58 of Chapter VI of the Act, in our considered view, necessarily has to be within a reasonable time and with dispatch, which period, in our considered view, three months time is sufficient enough for any authority to adjudicate any issue, more so, when we are dealing with confiscatory proceedings."

This Court hereby directs that the Respondent No. 3 before whom the Confiscation case is said to be pending must proceed to pass an appropriate order in the light of the Judgment of the Hon'ble Division Bench in the case of Umesh Sah (supra) and adhere to the time line fixed in the Judgment of Umesh Sah



(supra). Petitioner will also be at liberty to file appropriate application for reliefs prayed in this Writ Application. He may be present himself in person or through his Advocate on or before 15.11.2020 before Respondent no.2 on any working day.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

avin/-

U			
---	--	--	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

