

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15165 of 2021

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Santosh Sharma alias Santosh Kumar Sharma Son of Ashok Sharma, Resident of Village- Khajuriya Sharma Tola, P.S.- Govindganj, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Prohibition Excise Registration, Government of Bihar, Patna.
2. The Secretary Department of Prohibition, Excise and Registration, Government of Bihar, Patna.
3. The District Magistrate cum Collector East Champaran at Motihari.
4. The Superintendent of Police, East Champaran at Motihari.
5. The S.H.O. Govindganj P.S. East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Karandeep Kumar, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP-7)

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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 : 09-09-2021

Heard learned counsel for the petitioner and

learned counsel for the State.

Petitioner has prayed for the following relief(s): -

“ (I) That the instant application is being filed on behalf of above named petitioner for issuance of writ(s), order(s) or direction (s) for directing the respondent authority to unseal/unlock/release the house and land situated over the land of petitioner appertaining to Khata No. 14, Khesara No. 06, Area 1 Katha 7 dhoor Mauja- Khajuria (Sharma Tota) Thana No. 141, which has been sealed/locked in connection with Govindganj P.S. Case No. 476 of 2021 registered for the offences punishable u/s. 272, 273 & 34 of the Indian Penal Code and 30(a) of the Bihar Prohibition &

Excise (Amendment) Act, 2018.

(ii) For directing the respondent authority to stop the proceeding of Confiscation Case No. 285 of 2021 which has been proceeded for confiscate the aforesaid land belonging to this petitioner in connection with the said case.

(iii) For any other relief(s) for which petitioner is found to be entitled in view of the facts and circumstances of the case.”

Briefly stated the facts of the case is that on specific information received by the police that illicit liquor has been stored in the Dalan of Rakesh Sharma, police raided the place on 25.12.2020 and recovered huge quantity of liquor from the Dalan and one accused Rupesh Sharma was apprehended from said place, who disclosed that illicit liquor belongs to his brother Rakesh Sharma and thereafter illicit liquor was seized giving rise to Govindganj P.S. Case No. 476 of 2021 registered for the offences punishable u/s. 272, 273 & 34 of the Indian Penal Code and Section 30(a) of the Bihar Prohibition & Excise (Amendment) Act, 2018.

It appears that thereafter police enquired from the Circle Officer regarding ownership of the place from where there was recovery of huge quantity of illicit liquor and Circle Officer reported that the Dalan belongs to Santosh Sharma (petitioner) who is brother of accused Rupesh Sharma and Rakesh Sharma and on basis of which, confiscation proceeding

was initiated against the petitioner being confiscation case No. 295/2021 (Annexure 4).

Learned counsel for the petitioner submits that property from where alleged liquor is said to have been recovered has not been sealed or attached and even description of property is not found either in FIR or seizure list, as such, initiation of confiscation proceeding is bad and prayed to set aside the confiscation proceeding. However, from the contents of FIR, it is apparent that boundaries has been mentioned of the place from where illicit liquor was recovered in order to identify the place of occurrence.

After hearing learned counsel for the petitioner as well as learned counsel for the State, this Court does not find any ground to interfere with the confiscation proceeding initiated against the petitioner at this stage and it is open for the petitioner to take all lawful and permissible grounds in his defence in the confiscation proceeding before the confiscating authority who shall decide the case after granting adequate opportunity to petitioner for his defence and pass final order in accordance with law after hearing both the parties within 90 days from date of receipt /production of copy of order passed by

this Court, failing which, the premises of the petitioner shall be 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 concerned District Collector, or Confiscating Authority.

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.

With said observations, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

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