

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5696 of 2022

Sanjeev Kumar Son of Late Jay Krishna Prasad Resident of Mohalla
Khajekalan, Beside Danka Kucha Gali, P.S. Khajekala, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna.
2. The Commissioner Excise, Bihar, Patna.
3. The Collector cum District Magistrate, Patna.
4. The S.D.O., Patna City, Patna.
5. The Superintendent of Police, Patna.
6. The Officer Incharge cum Police Inspector, Khajekalan, Police Station
District Patna.
7. The J.E., Patna City Road Division, R.C.D., Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar, Advocate Mr. Ajay Kumar Jain, Advocate Mrs. Alka, Advocate
For the Respondent/s	:	Mr. Kumar Manish, SC-5

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 28-07-2022

Heard learned counsel for the parties.

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



1. That by way of this writ application, the petitioner craves indulgence of this Hon'ble Court for issuance of appropriate writ/direction/order for the release of the (i) Godown of the petitioner situated in the house of Raj Kumar Sao in Khajekalan Ghat and (ii) shop of the petitioner situated in the ancestral house of the petitioner bearing Ward No. 65, Revenue circle No. 138, New Holding 174, Old 157, Property No. 2116255, Circle - Azimabad, District Patna which have been sealed by the respondents in connection with Khajekalan P.S. Case No. 24/2022 registered under section 30(a), 32(I), (II), 33, 34, 36, 41(I), (II) of Bihar Prohibition and Excise Act 2018 without any legal consideration which is pending in the court of Special Judge, Excise, Patna city, Patna.

Learned counsel for the petitioner prays for release of the following property sealed in connection with Khajekalan P.S. Case No. 24/22 and handing over possession of the same to him:-

(A) Shop situated in the ancestral house of the petitioner bearing Circle Azimabad, Ward No. 65, Property No. 2116255, Revenue Circle No. 138, New Holding 174 Old 157, District- Patna;

(B) Godown situated in the house of Raj Kumar Sao at Khajekala Ghat, P.S. Khajekala, District- Patna.

Learned counsel for the petitioner submits that from perusal of sealing report, it is evident that no prohibited chemical was found in the premises of the petitioner which can be used for manufacturing the liquor and that the synthetic essential oil seized by the police cannot be used for manufacturing of liquor, as it is neither fit for fermentation nor fit for potable alcohol.

In facts and circumstances of present case, District Magistrate/Confiscating Authority, Patna is directed to



provisionally unseal the sealed properties, on furnishing adequate sureties to the satisfaction of concerned District Collector/ 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 properties liable for confiscation.

In view of amendment in the Excise Act, and same being applicable in pending case, it shall be open for the petitioner to get his/her shop/godwan unsealed after making payment of penalty in terms of Rule 12(B) and 57(B) inserted by amending Bihar Prohibition and Excise Rules, 2021.

With aforesaid observation and direction, the writ petition stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	03.08.2022
Transmission Date	

