

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10879 of 2022

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Naresh Choudhary son of Late Bhola Choudhary, Resident of Village-Karori Bazar, P.O. Habibpur, P.S.-Habibpur, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise and Prohibition, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Bhagalpur.
3. The Superintendent of Police, Bhagalpur.
4. The Investigating Authority Habibpur Police Station, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajive Ranjan Singh, Advocate
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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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 : 05-08-2022

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

- (i) For quashing to the Confiscation Proceeding No. 20/21-22 arising out of Habibpur P.S. Case No. 8 of 2022 pending before District Magistrate of Bhagalpur.
- (ii) For direction to relies the house of the petitioner which was under the confiscation proceeding no.

20/21-22 arising out of Habibpur P.S. Case No. 8 of 2022.

(iii) For any other relief/relieves entitled to the petitioner accordance with law.

Allegation is recovery of 4 liters of illicit Jawa Mahua country made liquor from a room and 10 litres of Jawa Mahua country made liquor from the kitchen of the petitioner. Further allegation is that different kinds of utensils for preparation of illicit liquor were also recovered.

It is submitted that a notice has been issued to the petitioner to pay a fine of Rs.1,00,000/- (Rupees one lacs) for getting the property in question unsealed/released and if within 15 days, he does not pay the aforesaid fine after filling Form V, his property will be confiscated.

There is minimum fine of Rs.1,00,000/- for getting the house released in terms of Rule 12 B (2) of the Bihar Prohibition and Excise Rules, 2021, which reads as under:-

“12 B (2) The Collector or the officer authorized by him shall have due regard to the economic status of the individual, nature of his involvement in the crime, location of the premises and the quantum of intoxicant recovered while deciding the quantum of fine to be paid by the individual. However, the fine shall not be less than Rs. One

Lakh in any case.

In any case, the Collector shall not wait beyond 15 days from the date of seizure/sealing and if during this period, the accused/owner does not pay up the penalty he shall proceed with the confiscation / auction.”

In said view of the matter, the writ petition is dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.08.2022
Transmission Date	NA