

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12697 of 2022

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Chote Chaudhary S/o Lalkeshwar Chaudhary, R/o Vill- Kripa Bigha, P.S. - Rajgir, Dist.-
Nalanda. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise and Prohibition Department,
Govt. of Bihar, Patna.
2. The Director General of Police, Govt. of Bihar, Patna.
3. The District Magistrate-Cum-Collector, Nalanda at Biharsharif.
4. The Sub Divisional Magistrate, Rajgir, Nalanda.
5. The Superintendent of Police, Nalanda at Biharsharif.
6. The S.H.O. Rajgir Police Station, Dist. - Nalanda at Biharsharif.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dr. Kamal Deo Sharma, Advocate
For the Respondent/s : Mr.Kumar Manish (S.C. 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 : 02-09-2022

Heard learned counsel for the parties.

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

1. (i) That this writ application filed by the petitioner for issuance of an
appropriate direction/s, order/s, writ/s, to respondents authorities to
release and unseal the joint residential house of the petitioner and
restore the possession of the same in favour of petitioner which has
been sealed in connection with Rajgir P.S. Case No.290/2021 on
13.08.2021 U/S 30 (a) of Bihar Prohibition and Excise (Amendment)
Act, 2018.
- (ii) Further the issuance of other appropriate writ/s, direction/s, order/s
as may be deem fit and proper.

Allegation is of recovery of 2 litres of illicit liquor from the house of the petitioner and whole premises has been sealed.

It is submitted by learned counsel for the petitioner that nothing has been recovered from the house of petitioner. It is further submitted that the house in question is a joint residential property and all family members have been residing separately in the said house but his entire house and main entrance gate has been sealed by the authorities forcing them to live under open sky even during rainy season.

In the facts and circumstances of the present case, the Confiscating Authority/District Collector, Nalanda at Biharsharif is directed to unseal the sealed house of the petitioner except the room from where illicit liquor was recovered on furnishing adequate sureties to the satisfaction of 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 property 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 house/property released after making

payment of penalty in terms of Rule 12(B) and 57(B) of Bihar Prohibition and Excise Rules, 2021.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	