

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16204 of 2022

Sanju Devi Wife of Gurudeo Bhagat, Resident of Village- Dumariya, Chikni,
Ward No. 9, P.S.- Mirganj, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The District Collector, Purnea.
3. The Superintendent of Police, Purnea.
4. The S.H.O. Mirganj, P.S.- District- Purnea.

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-12-2022

Heard learned counsel for the parties.

Petitioner has prayed for following relief:-

(I) For issuance of an appropriate writ in the order dated 12.08.2022, passed in Excise Case No.253/2022 arising out of Mirganj P.S. Case No.23/2022 dated 13.02.2022, instituted for the offence under Sections 272 and 273 of the Indian Penal Code and under Section 30(a) of the Bihar Prohibition and Excise Act, 2016, passed by the Collector, Purnea, whereby and whereunder the house of the petitioner situated at Dumariya, Thana No.122 appertaining to Khata No.10/256, Plot No.3839 area 07.5 dec. has been confiscated.

(ii) For issuance of an appropriate writ, commanding the respondents to release the house of the petitioner, as the same has been confiscated without jurisdiction and without notice to the petitioner.



(iii) For issuance of an appropriate writ, commanding the respondents to release the house of the petitioner, as the same has been confiscated without jurisdiction and without notice to the petitioner.

(iii) For any other relief/reliefs for which petitioner is entitle under law as well as on facts.”

Petitioner has approached this Court without exhausting the statutory remedy of appeal/revision against the impugned order, as such, petitioner is granted liberty to avail the remedy of appeal against the confiscation order passed by the Confiscating Authority- cum- District Magistrate, before the Appellate Authority and if any such appeal is filed within 4 weeks then appellate authority shall condone the delay in filing the appeal and shall decide the appeal on its own merit preferably within 8 weeks from the date of its filing.

During pendency of appeal/revision petition, confiscated property shall not be auction sold, if not already auction sold.

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 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)

(Partha Sarthy, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	25.12.2022
Transmission Date	

