

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16793 of 2022

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Suresh Kumar Purbey Son of Late Jagdish Punbey, resident of Mohalla-
Azamnagar, Ward No. 06, Maulbiganj, P.S.-L.N.M. University, District-
Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The Collector cum District Magistrate, Darbhanga.
3. The Superintendent of Police Excise Department, Darbhanga.
4. The Assistant Inspector, Excise Department, Sadar Darbhanga.
5. Choudhary Barj Bhushan, Assistant Inspector Excise, Darbhanga.

... .. Respondent/s

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Appearance :

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

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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 reliefs:-

“(I) That direction to the respondents authorities to release the petitioner’s house (kitchen) situate at Mohalla- Maulbiganj, Azamnagar, Balughat, P.S. L.N.M. University, District- Darbhanga which has been seized in connection with Excise Case P.R. No.205/2016 on 09.09.2016 for the offences registered under Section 47(a) and 57 of the Prohibition of Excise Act 2016 and the petitioner is also made an accused in the said case illegally on suspicion and the confiscation proceeding regarding the above mentioned house (kitchen) has not been started.

(ii) For granting any other relief/reliefs for which the petitioner may be found entitled too.”



Allegation is of recovery of 1.875 litre of illicit liquor from kitchen of the petitioner and the kitchen has been sealed.

It is submitted on behalf of petitioner that he is absolute owner of the property in question. It is further submitted that the house had been given on rent to one M/s Quippo Telecom Infrastructure Limited on 17.07.2009 through lease agreement for the purpose of telecom communication tower works and therefore petitioner is not the immediate custodian of the house nor he was in physical possession over it nor it was within his knowledge and information that illicit liquor has been stored in the kitchen.

In the facts and circumstances of the present case, the Confiscating Authority/District Collector, Darbhanga is directed to provisionally unseal the kitchen of the petitioner 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 kitchen 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)

(Partha Sarthy, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.12.2022
Transmission Date	

