

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2525 of 2023

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Mahabir Sah Son of Kashi Sah Resident of Village-Darmpura Ward No.3,
Near Temple, Majrarh, P.S.-Kargahar (Barhari O.P.), District-Rohtas
(Sasaram).

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Rohtas (Sasaram)
2. The Superintendent of Police, Rohtas (Sasaram)
3. The Superintendent of Excise, Rohtas (Sasaram).
4. The Officer In Charge, Kargahar (Barhari O.P.) Police Station, District-Rohtas (Sasaram)

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bishwajeet Pandey, Advocate
For the Respondent/s : Mr. Vivek Prasad (GP-7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-04-2023

The petitioner is concerned with the building in the premises owned by him in which he was running a rice mill, seized in Excise Case on recovery of 5440.14 liters of liquor from the godown of the rice mill.

2. The Police registered Kargahar (Barhari O.P. P.S. case No. 328 of 2022 under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 and Arms Act, which FIR has been produced as Annexure-1. The case is pending before the Special Judge, Rohtas, Sasaram. The petitioner then moved the Collector, Rohtas,



Sasaram, who based on the report of the Officer-in-charge of Kargahar Police Station initiated confiscation proceedings under Section 58(2) of the Bihar Prohibition and Excise Act, 2016 and passed an order dated 18.10.2021 (Annexure-2) and 18.10.2022 [Annexure-2(1)], with respect to the confiscation of the premises of the rice mill along with the building.

3. By the said order, the District Magistrate confiscated the Mahavir Mini Rice Mill situated in Mauza Jalwaiyan, Thana No. 334, Khata No. 1039, Area 0.25 Acres and also decided to sell it in auction. An appeal was filed which was dismissed by the Excise Commissioner in Excise Appeal No. 503 of 2022 as per Annexure-3. The revision petition also stood dismissed as per Annexure-4.

4. The consistent case of the petitioner before the Statutory Authority was that he was not aware of the seizure and that the entire case is concocted and malicious. However, the seizure of the 5440.14 litres of Indian made foreign liquor was recorded in the presence of independent witnesses. Excise Chemist Report No. 8925 dated 28.01.2022 was also obtained which tested the contraband recovered as alcohol. The Revisional Authority had specifically noticed Section 32 of the Act which raises a presumption against the owner of the premises to account for any



intoxicant stored in his premises, including that of possession of liquor. Every owner hence, has to take due care to ensure that the premises owned by him is not used for sale, manufacture, storage or any related activity of liquor.

5. Referring to the FIR and the huge quantity of contraband recovered, the Revisional Authority was of the opinion that the premises from which liquor was recovered was used for storage of liquor and the petitioner, the owner of the premises was involved in organized crime of liquor trafficking within the State of Bihar where there is prohibition imposed.

6. The Revisional Authority on the aforesaid findings rejected the revision and affirmed the order of the District Magistrate confirmed in appeal. We are not in appeal and are in judicial review, and there is absolutely no ground raised to cause interference to the proceedings challenged before this Court. The order of the District Magistrate confiscating the premises from which huge quantity of liquor was recovered and the direction to proceed with the auction of the said premises is perfectly in order.

7. We have to pertinently notice that Rule 12(3) specifically empowers the Confiscating Officer to refuse the release of the premises on payment of penalty as could be done under Rule 12B(1), in public interest. In the present case,



considering the huge quantity of liquor recovered, we are of the opinion that the discretion exercised in not releasing the property is perfectly in order.

8. We find no reason to entertain the petition and the same stands dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

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Uploading Date	17.04.2023
Transmission Date	

