

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2103 of 2023

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Sunita Devi W/o Late Ajay Kumar, R/o Mohalla- New Ara Patel Gali, P.S.-
Dehri On Sone, District- Rohtas (Sasaram)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Excise New Secretariat,
Patna, Bihar.
2. The Commissioner, Excise New Secretariat, Patna, Bihar.
3. The Collector Cum District Magistrate, Rohtas, Sasaram.
4. The Superintendent of Police, Rohtas, Sasaram.
5. The Officer-in-Charge, Dehri, P.S.- Rohtas, Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shiva Shankar Sharma, Adv.

For the State : Mr. Vivek Prasad (GP7)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE MADHURESH PRASAD)

Date : 02-05-2023

Heard learned counsel for the petitioner and learned
counsel for the State.

2. In exercise of powers under Section 57(2) of the
Bihar Prohibition and Excise Act (for brevity, the Act) read
with Rule 12B of the Bihar Prohibition and Excise Rules,
2021 (for brevity, the Rules), the respondent-Collector under



the impugned order dated 13.12.2022, passed in Excise Case No. 13 of 2022, (Annexure-9) has insisted on deposit of an amount of Rs. 25,00,00/- (Twenty Five Lacs) for release of the house (property) from where there is alleged recovery of 64.125 litres of IMFL.

3. The confiscation proceedings have already attained finality up till the stage of revision. The petitioner, thereafter, filed CWJC No. 6299 of 2022 (Annexure-3). The writ petition was disposed of with liberty to avail remedy in terms of Rule 12B of the Rules read with Section 57B of the Act. Sub rule (2) of Rule 12B dealing with release of premises on payment of penalty reads as follows:-

“12B. Release of Premises on Payment of Penalty:-

(1)....

(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.”

The impugned order dated 13.12.2022 shows no



consideration of the factors enumerated in Rule 12B(2) such as economic status of the individual, nature of his involvement in the crime, location of the premises and quantum of intoxicant recovered while deciding the quantum of fine to be paid by the individual. The insistence of the District Collector, therefore, requiring deposit of Rs 25,00,00/- (Twenty Five Lacs) to secure release, is legally unsustainable as the factors relevant to such consideration have been overlooked by the Collector while determining the amount of penalty.

The order dated 13.12.2022, passed by the Collector-cum District Magistrate, Rohtas, Sasaram (Respondent No.3) in Excise Case No. 13 of 2022, as contain in Annexure-9, is quashed. The matter is remanded to the Respondent No.3 for consideration afresh with reference to the relevant parameters specified in Rule 12B(2). The petitioner should present herself before the Respondent No.3 within a period of two weeks. Upon receipt/production of a copy of this order, the Respondent No.3 shall proceed to carry out the determination of penalty, as per the statutory provision after affording opportunity to the petitioner within a period of four weeks thereafter.



With this observations/directions the writ application is
allowed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	
CAV DATE	
Uploading Date	08-05-2023
Transmission Date	

