

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4679 of 2023

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Rajesh Kumar Singh S/o Late Ram Padarath Singh R/o Mahatma Gandhi Nagar, Kanti Factory Road, Opposite universal ITI, P.S.-Patrakar Nagar, District-Patna (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Registration, Excise and Prohibition, Government of Bihar, Patna.
3. The Excise Commissioner, Bihar Prohibition and Excise Department, Bihar, Patna.
4. The Collector Cum District Magistrate, Patna.
5. The Superintendent of Police Patna.
6. The Superintendent of Excise Department, Patna.
7. The Circle Officer, Patna Sadar, Patna.
8. The Station House Officer, Patrakar Nagar Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Walivr Rahman, Advocate
		Mr. Roushan Kumar, Advocate
For the Respondent/s	:	Mr. Kumar Manish (SC-5)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-04-2023

1. The petitioner is aggrieved with the seizure of his premises, situated at Mauza- Sadikpur Yogi, Thana No. 09, Khata No. 316, Khesra No. 825, Rakba- 2 Katha, under the Bihar Prohibition and Excise Act, 2016. The seizure was on account of the detection of 1275 litres of I.M.F.L. within the premises. An FIR was registered as Patrakar Nagar P.S. Case



No. 36 of 2021 against another person, who is said to be the lessee of the petitioner, who is the owner of the premises.

2. The petitioner participated in the confiscation proceedings, which went against him. The District Collector also exercised his discretion and allowed release of the premises but on condition of deposit of penalty of Rs. 2,00,000/-. An appeal was filed and then a revision, both ended against the petitioner.

3. The petitioner is before us claiming that the discretion exercised in imposing penalty is not proper and amount is excessive, especially since the minimum amount prescribed is Rs. 1,00,000/-.

4. Learned counsel for the petitioner also submits that petitioner is only the owner of the premises and has not been made an accused in the case and the stocking of liquor was made by his lessee.

5. Considering the quantum of liquor seized from the premises, we are of the opinion that the penalty imposed is not excessive. As per Rule 12B, the minimum prescribed penalty is Rs. 1,00,000/- and the District Collector has exercised his discretion properly insofar as Rule 12B (2) is concerned, especially considering the quantum of liquor recovered from the



premises. As far as the petitioner not being an accused in the case, it has to be noticed that the petitioner has the responsibility to ensure that his house is not used for any illegal purposes. If the petitioner deposits the penalty, the premises shall be absolved from the confiscation proceedings, on payment of penalty. The petitioner could proceed against the lessee, in accordance with law.

6. In the above circumstances, we find no reason to entertain the writ petition as such. However, if the petitioner makes the deposit of penalty within a period of three weeks from the date of issuance of certified copy of this judgment, the District Collector shall absolve premises from the confiscation proceedings and release the premises.

7. Writ application is disposed of.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

shashank/sumit-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.05.2023
Transmission Date	NA

