

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6086 of 2023

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Ajay Chaudhary S/o Late Chandar Chaudhary, Resident of Village-Raitar,
Chaudhary Tola, P.S.-Giriyak, Dist. Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Registration, Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The District Magistrate-cum-Confiscation Authority, Nalanda.
3. The Superintendent of Police, Nalanda.
4. The Superintendent of Excise Department, Nalanda.
5. The S.H.O. Giriyak Police Station, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Kumari Sujata Sinha, 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 : 28-04-2023

1. The petitioner is aggrieved with the seizure of the premises situated at Mauza Raifar, Thana No. 346, Khata No. 545, Khesra No. 5412, Rakwa 1.5 decimal Grair Mazarua Malik, from where country made liquor was seized but of a quantity of 2 litres. An FIR was registered on 01.04.2022 as Giriyak P.S. Case No. 145 of 2022. The house was sealed and later confiscated by an order dated 03.08.2022. The petitioner has chosen not to file an appeal against the confiscation order.

2. However, we see that there is provision under Rule 12B of the Bihar Prohibition and Excise Rules (hereinafter referred to as "Rules") for release of the premises, if the District



Collector feels it is not against public interest, if it is released and also on imposition of penalty, not less than Rs. 1,00,000/- but, however, looking at the various factors as delineated in sub-clause (2) of Rule 12B of the Rules.

3. In such circumstances, the petitioner would be entitled to approach the District Collector to avail the remedy under Rule 12B of the Rules.

4. It is also pointed out by learned counsel for the State that the order of confiscation itself notices that the house of the petitioner is an encroachment on a public road.

5. The said aspect will have to be considered by the District Collector before the release is effected.

6. The writ petition stands disposed of with the above directions, without any observations on merits about the title of the petitioner over the premises or quantum of penalty to be imposed, which are respectively left to the satisfaction and discretion of the District Collector.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

sumit/shashank-

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

