

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.875 of 2024

Arising Out of PS. Case No.-719 Year-2023 Thana- BUDDHACOLONY District- Patna

Satish Sharma Son Of Late Harinandan Singh Resident Of Village- Dusadh
Tola Mandiri Kathpul, Ps- Budha Colony Dist- Patna

... .. Petitioner/S

Versus

1. The State Of Bihar Through Principal Secretary, Dept. Of Exice Govt. Of Bihar, Patna Patna
2. The District Collector Cum District Magistrate, Patna Bihar
3. The Additional Collector, Patna Bihar
4. The Superintendent Of Police, Patna Bihar
5. The Deputy Superintendent Of Police Budha Colony Patna Bihar
6. The Officer Incharge Ps- Budha Colony Patna Bihar
7. The Sub Inspector Police Ps Budha Colony, Patna Bihar
8. Jitendra Kumar @ Jitu Kumar Son Of Ashok Prasad Resident Of Village- Bichali Mandiri Rented In Satish Sharma House, Ps- Budha Colony, Dist- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nand Kishore Prasad Sinha
For the Respondent/s : Mr.G.A.7

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

7 26-09-2024 Heard learned counsel for the petitioner and learned
counsel for the respondent-State.

2. This petition has been preferred by the petitioner for a direction in the nature of mandamus to unseal the shop of the petitioner situated at Ward No. 26, Bichali Mandiri Kath Pul under Buddha Colony Police Station bearing holding no. 353/211 which has been sealed in connection with the Buddha Colony P.S. Case No. 719 of 2023 for the offences punishable under Section 30(A) of the Excise Act.



3. It is submitted by the learned counsel for the petitioner that the alleged seized shop has been owned by the petitioner which was given by him on rent to one Jitu Kumar i.e. respondent no. 8 for running general/kirana store. However, without knowledge of the petitioner, the said Jitu Kumar had stored foreign liquor of about 216 litres, therefore, offence was registered against Jitu Kumar and during course of the investigation the shop possess by Jitu Kumar was sealed by the competent authorities.

4. It is further submitted by the learned counsel for the petitioner that as of now, the confiscation proceeding of the said shop is pending before the concerned collector. Referring to the judgment passed by the Division Bench of this Court in the case of ***Sonu Kumar @ Nitesh Kumar vs. The State of Bihar & Ors.*** in ***Civil Writ Jurisdictional Case No. 17128 of 2018***. It is prayed by the counsel that in light of the said judgment, this petition may also be disposed of.

5. The above prayer made by the counsel for the petitioner is not opposed by the counsel for the respondent-State and he also fairly admitted the fact that the matter is barely covered with said judgment ***Sonu Kumar @ Nitesh Kumar vs. The State of Bihar & Ors. (supra)***. Considering the submission



made by both the counsels and further considering the nature of recovery made by the respondent authorities. Respondent No. 2 i.e. District Magistrate Cum Collector, Patna is directed to unseal the shop as mentioned earlier in the judgment and handover its possession to the petitioner, on the petitioner depositing the original title deed of the property in the name of the owner as security together with one surety to the extent of the value of the said shop as per the market rate with the District Magistrate, Patna. The title deed of the petitioner shall be kept in safe custody of the confiscating authority.

6. The petitioner further will give an undertaking that during the pendency of the confiscation proceeding he will not deal with the property in question nor create any third party interest whatsoever. Let the possession of the shop in question be handed over to the petitioner within 14 days from the submission of document as directed by this Court today by the petitioner.

7. With the aforesaid observation, this petition stands disposed of.

(Arvind Singh Chandel , J)

Siddharth Soni/-

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