

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14031 of 2024

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Jaya Singh Wife of Sanni Kumar Resident of Mohalla- Rambagh Road,
Muzaffarpur, P.S.- Town, District- Muzaffarpur, at present residing in Village-
Baghi, P.S.- Garoul, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Addl. Chief Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate cum Collector, Muzaffarpur.
3. The Deputy Collector of Land Reforms (East), Muzaffarpur.
4. The Senior Superintendent of Police, Muzaffarpur.
5. The Officer-in-Charge, Mithanpura Police Station, District- Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ganesh Prasad Singh, Adv.
For the Respondent/s : Mr.Gyan Prakash Ojha, GA 7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
C.A.V. JUDGMENT
(Per: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY)

Date : 04-10-2024

In the instant petition, petitioner has prayed for the
following reliefs (s) :-

*“(A) To issue appropriate writ, order or
direction in the nature of mandamus
commanding the respondent authorities to
release entire house hold articles belong to
the petitioner and had family from house
of Paras Singh situated at ground floor at
Md. Madnani Lane, Mithanpura, P.S.
Mithanpura, District- Muzaffarpur which
has been sealed on 03.03.2024 by*



Mithanpura Police showing false recovery of 2.220 liter liquor from aforesaid rented house of the petitioner.

(B) To grant any other relief or reliefs under the facts and circumstances of the case to which petitioner is entitled.

2. Briefly stated, the facts of the case is that there is alleged recovery of 2.220 liters of illicit liquor from the rented room of the petitioner in the house of Paras Singh. On the basis of aforesaid fact, F.I.R. No. 76 of 2024 dated 03.03.2024 was registered in Mithanpura P.S. under section 414 of the Indian Penal Code and section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Learned counsel for the petitioner submits that for the alleged recovery of 2.220 liters of illicit liquor from the rented room of the petitioner, his room along with entire house hold articles including other materials and books were sealed. He submits that petitioner has never used any intoxicant, liquor, material, still, utensil, implement, apparatus violating any provisions of the Bihar Prohibition and Excise Act, 2016. On 03.03.2024, Mithanpura Police has recovered illicit liquor from a car which was parked in front of house of Paras Singh and petitioner has no concern at all with the said car as petitioner is not the owner of the said car but at the instance of some people



of vested interest, Mithanpura police forcefully entered into her room without any reason and scuffle took place between the police and petitioner and her husband. The respondent-Officer-in-Charge, Mithanpura P.S. acted in most arbitrary manner and apprehended the petitioner and her husband and lodged Mithanpura P.S. Case No. 76 of 2024 under section 414 of the Indian Penal Code and section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022. Learned counsel submits that police, on secret information, made seizure and recovery of 2.220 liter of illicit liquor was shown to have been made from the room of the petitioner along with other recovery from the car for which a joint seizure list was prepared and the room of the petitioner was sealed. From perusal of the first information report, it is evident that the owner of the house has not been made accused instead of admitted fact that police recovered illicit liquor from a car which was parked in front of the house of owner Paras Singh. Neither petitioner nor her husband is driver or owner of the said car, but Mithanpura police apprehended petitioner and her husband and sealed the said house along with the entire house hold articles belonging to the petitioner and her family. Petitioner and her husband has been falsely implicated in the present case. Seizure list witnesses are



all police personnel and there is no local and independent witness.

4. Learned counsel for the respondents submits that the learned trial Court vide order dated 06.04.2024 rejected the application of the petitioner on the ground that power for passing any order with respect to unsealing of room vested with the District Magistrate in terms of provision of Section 58 of the Bihar Prohibition and Excise Act. A new provision was inserted by virtue of amendment in Bihar Prohibition and Excise Rules, 2021 wherein it has been provided that premises can be released on payment of penalty. It has been specifically mentioned that in case accused/owner does not pay penalty, the concerned authority shall proceed with the confiscation/auction. It has been submitted that as per the report submitted that Sr. Superintendent of Police, Muzaffarpur, there is no antecedent of the petitioner at Mithanpura and Goroul police stations. Petitioner has alternative remedy to get her house unsealed after making payment of penalty in terms of Rule 12(B) of the Bihar Prohibition and Excise Rules, 2021.

5. From perusal of record, it has transpired that petitioner is in rented accommodation from where alleged recovery of 2.220 liter of illicit liquor has been made and



petitioner herself has admitted that aforesaid premises was taken by the petitioner and her family members on rent and her entire house hold articles were sealed along with accommodation where she along with her family members was residing. For recovery of a meager quantity of illicit liquor from the accommodation in question and petitioner has no criminal antecedent, a penalty of Rs. 10,000/- is appropriate in light of the facts and circumstances of the case.

6. We are conscious of the fact that alleged recovery is of meager quantity and the aforesaid order has been passed while invoking extra ordinary jurisdiction under Article 226 of the Constitution of India for the reasons that unnecessarily petitioner shall not be subjected to various proceedings like Rule of 12B of the Bihar Prohibition and Excise Rules, 2021 read Sections 58, 92 and 93 of the Bihar Prohibition and Excise Act, 2016, for a trivial issue relating to seizure of 2.220 liters of illicit liquor and afore decision is warranted to prevent multiplicity of proceeding under Excise Act and Rules, in the interest of justice.

7. Considering recovery of small quantity of liquor, the concerned authority is hereby directed to collect fine of Rs.10,000/- and unseal the entire house along with house-



hold articles belonging to the petitioner, which has been sealed on 03.03.2024, within a period of one week from the date of receipt of this order.

8. Accordingly, the writ petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

mcverma/-

AFR/NAFR	AFR
CAV DATE	30.09.2024
Uploading Date	04.10.2024
Transmission Date	04.10.2024

