

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16320 of 2024

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Mano Devi, W/o Rambrikhh Yadav, Resident of Village - Line Par Mirjapur,
P.S. - Nawada, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Divisional Commissioner, Excise Department, Patna Division, Patna.
3. The District Collector, Nawada.
4. The District Superintendent of Police, Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Advocate
For the Respondent/s : Mr. Dr. Md. Rasul Haque, SC-10

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
And
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 28-10-2024

In the instant petition, the petitioner has prayed

for the following reliefs(s):-

(i) To unseal the house of the petitioner which is seal by the respondent authorities in connection with Excise Nawada P.S. Case No. 596/2024 for the offence registered under section 30(a)(c) of the Excise Act. This house is constructed in bearing demand no.-99, Khata No.-61 and Khesra no.-469 and total area as . 75 decimal.

(ii) For till today excise confiscation case

has not been initiated..

2. Briefly stated, the facts of the case is that there is alleged recovery of 3.375 litres of illicit country made foreign liquor from the roof-top and a room of the house of the petitioner. On the basis of the aforesaid facts, Nawada P.S. Case No. 596 of 2024 dated 28.08.2024 instituted case for the offences under Sections 30(a)(c) of the Bihar Prohibition & Excise Amendment Act, 2022.

3. It is submitted by learned counsel for the petitioner that petitioner is owner of the said house and she has not been arrayed as one of the accused, rather her family members have been arrayed as accused in this case. The said house was constructed in the land bearing *Khata* No. 61, *Khesra* No. 469 and Demand No. 99 and the petitioner has continuously been depositing rent to the Government. The recovery has not been made from the conscious possession of any family member of the petitioner. Moreover, there is recovery of

only a meager quantity of 3.375 litres of illicit country made foreign liquor from the roof-top and a room of the house of the petitioner. It is also submitted that till date the confiscation proceeding has not been initiated.

4. Learned counsel for the respondents submits that recovery of illicit liquor was made from the roof-top and a room of the house of the petitioner and other family members of the petitioner were made accused for recovery of illicit liquor. However, the petitioner has alternative remedy to get the room and stair of the house unsealed after making payment of penalty in terms of Rule 12(B) of the Bihar Prohibition & Excise Rules, 2021.

5. From perusal of the record, it has transpired that alleged recovery of 3.375 litres of illicit country made foreign liquor has been made from the room and roof-top of the house of the petitioner. Moreover, for recovery of a meager quantity of illicit liquor from a room of the house of the petitioner, she being lady

having no criminal antecedent, a penalty of Rs. 25,000/- (Twenty Five Thousands) 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 meager quantity of illicit country made foreign liquor and the aforesaid decision is warranted to prevent multiplicity of proceedings under Excise Act and Rules, in the interest of justice.

7. Considering recovery of small quantity of liquor, the petitioner is directed to deposit fine of Rs. 25,000/-(Twenty Five Thousands) and the concerned

authority is hereby directed to collect fine of Rs. 25,000/-(Twenty Five Thousands) and unseal the room and stair of the house of the petitioner which have been sealed on 29.08.2024, 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)

(S. B. Pd. Singh, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30/10/2024
Transmission Date	N/A