

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2009 of 2023

Arising Out of PS. Case No.-482 Year-2022 Thana- NAGAR District- Vaishali

SUNIL KUMAR SHUKLA SON OF ARUN KUMAR SHUKLA RESIDENT
OF WARD NO.14, LAXMI NARAYANPUR, SINGHARA BUZURG,
POLICE STATION - MAHUA, DISTRICT - VAISHALI

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE SUPERINTENDENT OF
POLICE, VAISHALI, HAJIPUR
2. THE SUB DIVISIONAL MAGISTRATE, SADAR, HAJIPUR, VAISHALI
3. THE SUB DIVISIONAL POLICE OFFICER, SADAR, HAJIPUR,
VAISHALI
4. THE CIRCLE OFFICER, SADAR, HAJIPUR, VAISHALI
5. THE POLICE SUB INSPECTOR-CUM-OFFICER, IN-CHARGE, TOWN
P.S., HAJIPUR, VAISHALI
6. THE POLICE SUB INSPECTOR-CUM-OFFICER IN-CHARGE, TOWN
P.S., HAJIPUR, VAISHALI
7. THE POLICE SUB INSPECTOR-CUM-INVESTIGATING OFFICER,
TOWN P.S., HAJIPUR, VAISHALI

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Navendu Kumar, Adv.
For State/ Respondent/s	:	Mr. S.D. Yadav, AAG-9, Mr. Braj Bhushan Mishra, AC to AAG-9

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 18-03-2024

Heard learned Advocate for the petitioner as well as
learned APP for the State.

2. The petitioner has approached this Court under Article
226 of the Constitution of India for issuance of a writ of certiorari
calling for the records and directing the respondents to release the



hotel/hotel building that was seized and sealed on the basis of an allegation of commission of offence under Sections 3/4/5/7/9 of the Immoral Traffic (Prevention) Act, 1956 and other incidental reliefs.

3. It is contended on behalf of the petitioner that petitioner is the owner of the piece and parcel of land situated at Vaishali along with structure thereon. The petitioner inducted one Amit Kumar as a tenant in respect of the said building to run residential hotel (Awasiya Hotel) in the said building. The tenancy was granted for 11 months. It is also on record that the said Amit Kumar used to run a hotel business under the name and style of Chandra Hotel at Hajipur, in the District of Vaishali.

4. On the basis of raid conducted by the Officer-in-charge of Mahila P.S. and other Officers and the members of the force on 27th June, 2022, it was found that the said hotel was being run for the purpose of immoral trafficking and accordingly Hajipur (Town) P.S. Case No. 482 of 2022, under Sections 114/290/370/509/354/34 of the I.P.C. and Sections 3/4/5/7/9 of the Immoral Traffic (Prevention) Act, 1956 was registered against the apprehended persons as well as the Owner/Manager of the said hotel namely Amit Kumar.



5. It is further found from the record that Sunil Kumar Shukla being the owner of the land and structure made an application before the Sub-divisional Magistrate, Hajipur for release of the said structure in favour of him on the ground that he did not run immoral trafficking in the said hotel. He was not associated with the hotel business. The house was transferred on rent to one Amit Kumar for 11 months and the said period was over. The learned Magistrate however refused to release the said building in favour of the petitioner.

6. The petitioner assailed the said order in revision before the learned Sessions Judge, Hajipur at Vaishali and the learned Sessions Judge dismissed the said revision on the ground that the same was not maintainable. Hence the instant writ petition.

7. It is submitted by the learned Advocate for the petitioner that the Investigating Officer already submitted charge-sheet under Sections 114/290/370/509/354/34 of the I.P.C. and Sections 3/4/5/7/9 of the Immoral Traffic (Prevention) Act, 1956 against one Raju Kumar, Niraj Kumar, Rahul Kumar, Raunak Kumar, Ritik Roushan and Amit Kumar. The said Amit Kumar is qualified with the words as Owner-cum-Manager of the hotel. Therefore, it is submitted by the learned Advocate for the petitioner that charge-sheet has not been filed against Sunil Kumar



Shukla and he is entitled to get back his property. He was absolutely unaware about the fact that Amit Kumar allegedly run the hotel business for immoral purpose.

8. The learned A.A.G., on the other hand, submits that on the last occasion he raised his objection because of the fact that before the Sub-divisional Magistrate, the petitioner approached to release the hotel where immoral trafficking was going on. It was not within the knowledge of the prosecution that the petitioner had no estate over the said hotel.

9. Having heard the learned counsels for the parties and on careful perusal of the entire materials on record as well as the provisions of the Immoral Traffic (Prevention) Act, 1956, it is laid down in Section 18 (1) of the said Act as follows:-

“18. Closure of brothel and eviction of offender from the premises.

(1) A magistrate may, on receipt of information from the police or otherwise, that any house, room, place or any portion thereof with a distance of two hundred yards of any public place referred to in sub-section (1) of section 7, is being run or used as a brothel by any person, or is being used by prostitutes for carrying on their trade, issue notice on the owner, lessor or landlord of such house, room, place or portion or the agent of the owner,



lessor or landlord or on the tenant, lessee, occupier of, or any other person in charge of such house, room, place, or portion, to show cause within seven days of the receipt of the notice why the same should not be attached for improper user thereof; and if, after hearing the person concerned, the magistrate is satisfied that the house, room, place, or portion is being used as a brothel or for carrying on prostitution, then the magistrate may pass orders-

(a) directing eviction of the occupier within seven days of the passing of the order from the house, room, place, or portion;

(b) directing that before letting it out during the period of one year immediately after the passing of the order, the owner, lessor or landlord or the agent of the owner, lessor or landlord shall obtain the previous approval of the magistrate:

Provided that, if the magistrate finds that the owner, lessor or landlord as well as the agent of the owner, lessor or landlord, was innocent of the improper user of the house, room, place or portion, he may cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor or landlord, with a direction that the house, room, place or portion shall not be leased out, or otherwise



given possession of, to or for the benefit of the person who was allowing the improper user therein.”

10. It is on record that no action under Section 18 has been taken as yet by the learned Magistrate.

11. In view of such circumstances, the building on which the said hotel was run be released in favour of the petitioner Sunil Kumar Shukla on giving an undertaking that the said building would not be used in future as hotel and that the said building would not be used for immoral purpose in future.

12. Such undertaking shall have to be filed before the learned Sub-Divisional Magistrate, Hajipur at Vaishali.

13. On filing of such undertaking, the building may be released in favour of the petitioner.

14. The entire exercise shall be done within three weeks from the date of this order.

15. The instant writ petition is accordingly disposed of.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

