

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1541 of 2024

Arising Out of PS. Case No.-143 Year-2021 Thana- SHEIKHOPUR SARAI District-
Sheikhpura

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Shobha Devi wife of Mithlesh Choudhary Village- Rahincha Ps- Sheikhopur
Sarai Dist- Sheikhpura

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Bihar Prohibition and Excise and
Registration Dept. Govt. Govt. of Bihar
2. The Commissioner Bihar Prohibition and Excise and Registration Dept.
Govt. of Bihar, Patna Bihar
3. The District Magistrate, Sheikhpura Bihar
4. The Excise Superintendent, Sheikhpura Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Anjani Pd. Singh, Advocate Mr. Sunny Kumar, Advocate
For the Respondent/s	:	Mr. J.K. Roy No. 1, SC 13 Mr. B.B. Pd., AC to SC 13

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 20-02-2025 In connection with Sheikhopur Sarai P.S. Case No.

143 of 2021 dated 21st September 2021 under Section
30(a)/30(c) of the Bihar Prohibition and Excise Act, 2018 read
with Section 188/272/273 of the IPC. The residential house of
one Shobha Devi, the petitioner herein was sealed . It is
contended on behalf of the petitioner tht the said house is the
only residence of Shobha Devi and her family members because
the house was sealed, the petitioner does not have any place of
aboard and accordingly the writ in the nature of mandamus may
be issued directing the District Magistrate, Sheikhpura to unlock



the said residential property in favour of the party.

2. It is ascertained on perusal of the materials on record as well as the submission made by the learned Advocate on behalf of the parties that in the above-mentioned criminal case, the house of the petitioner, namely, Mithilesh Choudhary was made an accused on the allegation that he had set up a manufacturing unit of country-liquor in his house.

3. The seizure list shows beside recovery of a jerry cans containing liquor some aluminium pot and earthen furnace connected with pipe were recovered from the said house of the petitioner. It is contended by the learned Advocate for the petitioner that the sealed house is owned by her, her husband does not have any ownership over the said house and the said house may be unlocked so that the petitioner can stay with her family members.

4. The Bihar Prohibition and Excise Rules, 2021 by way of amendment introduce a new Rule 12B which reads as under:

"12B. Release of Premises on Payment of Penalty: - (1) If any premises or part thereof has been seized or sealed by any police or excise officer under the Act, then in terms of section-57B (2) of the Act, the Collector or an officer authorized by him, upon receipt of an application in Form V from the owner of the said premises, may release or unseal



the said premises or part thereof upon payment of such penalty as may be ordered by the Collector or the officer authorized by him. Provided, where it is not possible to ascertain the owner of the premises or the owner is not coming forward, the Collector or the officer authorized by him shall, after waiting for 15 days from the date of seizure/sealing, proceed to confiscate the premises as per the provisions of the Act.

(2) The Collector or the officer authorized by him shall have due regard to the economic status of the individual, nature of his involvement in the crime, location of the premises and the quantum of intoxicant recovered while deciding the quantum of fine to be paid by the individual. However, the fine shall not be less than Rs. one Lakh in any case. In any case, the Collector shall not wait beyond 15 days from the date of seizure/sealing and if during this period, the accused/owner does not pay up the penalty he shall proceed with the confiscation/auction.

(3) Notwithstanding above, if on a report by police officer or excise officer, the Collector or the officer authorized by him is satisfied that releasing the premises shall not be in the public interest, the Collector or the officer authorized by him shall proceed ahead with the confiscation of the said premises or part thereof and its subsequent auction/disposal.

(4) Such penalty shall be, regardless of the outcome of the trial if any, before the Special Court, non-refundable.

(5) The owner of the Premises shall, after the release of the premises, allow the inspection of the premises as and when desired by



the authorities.

[Explanation: In all pending/ongoing cases of confiscation/ auction of premises, the Collector or the officer authorized by him may give an opportunity to the existing owner to pay the aforesaid penalty and get the premises released. Upon satisfaction of ownership and upon payment of such penalty, the ongoing confiscation/auction proceeding may be dropped and the premises released.]"

5. In view of such amendment, and the same being applicable in pending case, it shall be open for the petitioner to get her house unsealed after making penalty in terms of Rule 12B of the Bihar Prohibition and Excise Rules, 2021. The petitioner is granted liberty to take action under the above-mentioned provision to get his remedy before the competent authority.

6. If the petitioner files such application under Rule 12B, the District Magistrate, Sheikhpura shall dispose of the same within 30 days from the date of filing of such application.

7. With the above order, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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