

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7344 of 2019**

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Anuj Prasad @ Amit Kumar, Son of Munni Prasad @ Munilal Prasad,  
Resident of Village- Kurtha, Police Station- Hilsa, District-Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Excise Department, Bihar, Patna.
2. The District Magistrate, Nalanda.
3. The Senior Superintendent of Police, Nalanda.
4. The Excise Officer, Nalanda, District- Nalanda at Biharsarif.
5. The Officer Incharge, Hilsa, District-Nalanda.

... .. Respondent/s

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**Appearance :**

|                      |   |                                                        |
|----------------------|---|--------------------------------------------------------|
| For the Petitioner/s | : | Mr. Gautam Kumar Yadav, Adv.<br>Mr. Ranjit Kumar, Adv. |
| For the Respondent/s | : | Mr. Kumar Pankaj, AC to SC-5                           |

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**and**  
**HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)**

**Date : 28-06-2019**

Heard the parties.

The petitioner by way of this writ petition prays for release of the following items which have been recovered from the possession of the petitioner no less than 11 days after the institution of the FIR arising from Hilsa P.S. Case No.608 of 2018 for alleged recovery of 2826 litres of Indian Made Foreign Liquor from the godown of the Primary Agriculture Credit Cooperative Society, Hilsa in the district of Nalanda:



- (i) One lacs rupees (Rs.1,00,000/-);
- (ii) ATM of HDFC bearing no.4160-2103-0933-8328;
- (iii) ATM of S.B.I. bearing no.6220180358780075462;
- (iv) ATM of Axis Bank bearing No.49022390-2396-8840;
- (v) PAN Card No.ECLPK1392C;
- (vi) Owner Book of Vehicle Registration No.BRO1PG3687;
- (vii) Adhar Card;
- (viii) Driving licence No.BR212R12P01662;
- (ix) Owner Book No.DL85AN 9971;
- (x) Driving Licence No.28774; and
- (xi) Mobile of Samsung company along with Sim No.7091820276 as well as Airtel Sim No.8578905100.

Mr. Gautam Kumar Yadav, learned counsel appearing for the petitioner submits that the petitioner is in no manner connected either with the Cooperative Society or the godown rather simply on suspicion that he has been roped in the criminal case and the recovery made no less than 11 days after the institution of the FIR. In reference to the seizure list a copy of which is a part of FIR at running page 24 he submits that none of these items are liable for confiscation under section 56 of the Bihar Prohibition and Excise Act, 2016. He further informs that confiscation case has not yet been initiated.

A counter affidavit is filed and Mr. Kumar Pankaj, learned Assisting Counsel to Standing Counsel No.5 submits in reference to paragraph 6 that the petitioner himself has admitted his involvement in illegal trade of liquor.



We have heard learned counsel for the parties and we have perused the records and since the matter is yet pending adjudication we would not express ourselves in so far as the involvement of the petitioner with the alleged recovery of liquor is concerned but even while reserving our opinion on the said issue we are of the definite opinion that the items recovered from the petitioner which are detailed above for the release of which the present writ petition is filed are certainly not the items liable for confiscation and consequentially the recovery thereof is illegal.

In such view of the matter and since the confiscation case is yet to be initiated we hereby direct the designated court below at Hilsa under the Judgeship of Nalanda to ensure release of the items noted hereinabove within 14 days of receipt/production of a copy of this judgment.

The writ petition is allowed.

**(Jyoti Saran, J)**

**( Partha Sarthy, J)**

skpathak/-

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| AFR/NAFR          | NAFR       |
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