

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17126 of 2021**

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Dhuri Choudhary S/o Mahesh Choudhary, R/o Vill. - Rajnitik Nagar Kamal Bigha, P.S. - Rajgir, District - Nalanda at Biharsharif.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The Director General of Police, Govt. of Bihar, Patna.
3. The District Magistrate - Cum - Collector, Nalanda at Biharsharif
4. The Superintendent of Excise Prohibition, Nalanda at Biharsharif
5. The Superintendent of Police, Nalanda at Biharsharif
6. The S.H.O., Rajgir Police Station, Dist. - Nalanda at Biharsharif

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Dr. Kamal Deo Sharma  
For the Respondent/s : Mr. Kumar Manish, S.C. 5

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE S. KUMAR)**

**Date : 17-11-2021**

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“(i) For issuance of an appropriate direction/s, order/s, writ/s, to respondents authorities to release and unseal the joint residential house of the petitioner and restore the possession of the same in favour of petitioner which has been sealed in connection with Rajgir P.S. Case No. 262/2021 on 28.07.2021 U/S 30 (a) of Bihar Prohibition and Excise (Amendment) Act,

2018.

(ii) Further the issuance of other appropriate writ/s, direction/s, order/s as may be deem fit and proper.”

It is submitted on behalf of petitioner that petitioner is a disabled person and neither the illicit liquor was recovered from his possession nor from that part of the house (room) in which he along with his family members resides. Rather, the illicit liquor has been recovered from that part of the house (room) in which accused Lallu Choudhary, who is his brother, resides. It is further submitted that the house in question is a joint family property, and as there is no recovery of illicit liquor, either from the possession of the petitioner or from his room, no offence under the Excise Act is made out.

It is further submitted that 4 litre of country made illicit liquor has been recovered from the room of the accused Lallu Choudhary and for that Confiscation Case No. 262 of 2021 is going on.

In the facts and circumstances of the present case, petitioner is directed to file a petition before the Confiscating Authority/District Collector, Nalanda at Biharsharif, for unsealing that part of the property in question which belongs to

the petitioner and other family members and proceed with the confiscation case only with respect to that part of the house in question which belongs to the accused Lallu Choudhary from where the illicit liquor has been recovered.

The Confiscating Authority/District Collector, Nalanda at Biharsharif, is further directed to unseal part of the property in question (sealed in connection with Rajgir P.S. Case No. 262/2021 on 28.07.2021) which belongs to the petitioner and other family members (except accused Lallu Choudhary) and hand over its possession to the petitioner on furnishing adequate surety to the satisfaction of Confiscating Authority, Nalanda at Biharsharif.

This writ petition stands disposed of.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

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