

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18447 of 2025

Arising Out of PS. Case No.-310 Year-2025 Thana- Excise P.S. District- Patna

Mritunjaya Kumar, Son of Satyanarayan Singh, R/o Shanti Kunj, Behind Harijan Colony, Opposite Grand Appt., Sidheshwar Nagar, Patna, Boring Road Patna, P.O. and P. S. Patliputra, District Patna, Bihar 800013

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Rana Vikram Singh, Advocate
Ms. Rasika, Advocate
Mr. Janmejy Giridhar, Advocate
Ms. Priti, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 17-04-2025

Heard Mr. Rana Vikram Singh, learned counsel appearing for the petitioner and Mr. Jharkhandi Upadhyay, learned APP appearing on behalf of the State.

2. The present petition preferred by the petitioner under Section 528 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (in short 'B.N.S.S.') for unsealing of premises of one-room, which is a part of two-bedroom flat, bearing Flat No.- 202, Shivpriya Apartment, Jagdamba Path, North S.K. Puri, Patna, owned by the petitioner. Room in question was sealed upon lodging of First Information Report (in short 'F.I.R.')



bearing Excise (Patna) P.S. Case No.310 of 2025 dated 28.02.2025 under Sections 30(a), 56 and 62 of the Bihar Prohibition and Excise Act, 1966 & Amendment Act, 2022, when tenant of petitioner upon police raid found in possession of 9.3 litre of Indian made foreign liquor.

3. The case of prosecution, in brief, is based upon the *fardbeyan* of the informant namely, Vijay Kumar, Inspector, Excise Department, Patna, dated 28.02.2025 in which, it is alleged that on 28.02.2025 at about 8.00 P.M., the informant was on patrolling duty at Marine Drive, Patna, where he received a secret information that illegal foreign made liquor is being stored in a room at Shivpriya Apartment, Jagadamba Path, S.K. Puri. Thereafter, the informant convey this information to his superior officers. Upon order of the superior officer to conduct search and seizure operation, the informant reached at the flat in question after barricading the area. It is further alleged that the local people of the area and security guard of the said apartment gathered upon seeing the movement of the excise team. Thereafter, the police requested the people gathered over there to become an



independent witness. However, no one present at the spot was ready to become an independent witness. It is further alleged that the informant along with the raiding team proceeded for search and seizure. During the said operation, a total of 9.390 liter of illicit liquor was recovered from a room of a flat in the said apartment. It is further alleged that a person was apprehended from the said room, who disclosed his name as Pintu Kumar, S/o Ajay Kumar, R/o Village-Phulwaria, District-Chapra (Saran). The apprehended person disclosed that he is the tenant of the room in question and living alone in the said room and confessed that he is the owner of the seized liquor. The said confession was also video-graphed. It is further alleged that search and seizure report was prepared and the accused person was arrested. The room in question was duly sealed in terms of Section 62 of the Bihar Prohibition and Excise Act, 2016.

4. Thereafter, the statement of the accused persons under Section 180 of the Bhartiya Nagrik Suraksha Sanhita, 2023 was recorded in which he categorically stated that he was carrying out the trade of illicit liquor and has



taken said room on rent since 2023. He further stated that the landlord/flat owner has no knowledge regarding his illegal activities, neither he is involved in this illegal business of liquor and due to financial crisis, he entered into illegal trade of illicit liquor.

5. It is submitted by Mr. Rana Vikram Singh, learned counsel for the petitioner that it is an admitted position that the petitioner is not an accused in this case and, therefore, the premises in issue cannot be said to be a subject of confiscation. It is also pointed out that the basis of sealing of premises is the confessional statement of apprehended co-accused, where it is categorically stated that his activities was not in knowledge of the petitioner being the owner. It is also submitted by Mr. Singh that a process of confiscation of the premises in view of Section 56 of the Bihar Prohibition and Excise Act read with Rule 12-B of Excise Rule, 2021 was not initiated yet, where after waiting for fifteen days from the date of seizure/sealing, the D.M. has to proceed to confiscate the premises as per provisions of the Act.

6. It is further submitted by Mr. Singh that the two



bed rooms flat was given on rent to accused person but, interestingly, only one room was sealed by the police. It is submitted that sealing of one room of two bed rooms flat is of no purpose, for which, petitioner is suffering from financial loss on daily basis.

7. A counter affidavit dated 11.04.2025 filed by learned APP, Mr. Jharkhandi Upadhyay also suggests that the confiscation proceeding is yet to initiate in this case.

8. It is submitted by Mr. Jharkhandi Upadhyay, learned APP that it is a case of part sealing of flat.

9. Considering the aforesaid, as confiscation proceeding is yet to initiate in this case, in view of Section 56 of the Bihar Prohibition and Excise Act, 2016 (amended as 2022) read with Rule 12-B of the Excise Rules, 2021, therefore, the Senior Superintendent of Police, Patna is directed to ensure unsealing of sealed room of the petitioner immediately, directing the concerned S.H.O./I.O. in presence of the petitioner upon showing the copy of indemnity bond of Rs.10 Lakhs furnished before the court concerned, as directed hereinbelow.



10. It is directed that the unsealing of room in issue of flat No. 202, Shivpriya Apartment, Jagdamba Path, North S.K. Puri, Patna owned by petitioner be done only subject to:

(i) That the petitioner shall furnished an indemnity bond of Rs.10,00,000 (Rupees Ten Lakhs) before the concerned Excise Court, where Excise (Patna) P.S. Case No.310 of 2025 is pending along with proof of his ownership *qua* flat/room in issue.

11. Accordingly, the application stands allowed.

12. Let a copy of this order be sent to the Senior Superintendent of Police, Patna forthwith for its compliance.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23-04-2025
Transmission Date	23-04-2025

