

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6353 of 2025

=====

Sachin Kumar Son of Late Sanjay Kumar, resident of Village- Barhi Bigha,
Ward no. 15 P.S. Hisua, District- Nawada (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition Excise and Registration Department (Excise), Government of Bihar, Nawada.
2. The Principal Secretary Prohibition Excise and Registration Department (Excise), Government of Bihar, Nawada.
3. The District Magistrate, District Nawada (Bihar)
4. The Superintendent of Police, District Nawada (Bihar)
5. The Superintendent of Excise, District Nawada (Bihar)
6. The Station House Officer, Nawada Excise Police Station, District Nawada (Bihar)
7. The Investigating Officer of Nawada Excise PS Case No. 609 of 2024, District Nawada (Bihar)
8. The Assistant Sub-Inspector, Archana Sinha (the informant) Nawada Excise PS

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Raj Kumar
For the Respondent/s : Mr. Rakesh Prabhat, AC to SC 21

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
And
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 07-05-2025

In the instant petition, the petitioner has prayed for
the following reliefs(s):-

*1. (i) For direction to release the petitioners
residential house situated at Khata No. 220,
Khesara no. 824 (in a portion of the total area
of 5 decimals) recorded in the name of Rajesh*



Kumar and Sanjay Kumar, which is comprised of the shares of other coparceners of this petitioner in connection with Nawada Excise Police Station Case No. 609 of 2024 instituted under section 30(a) of the Bihar Prohibition and Excise Act.

(ii) For direction to the respondent to release the petitioner's house including the shares of other coparceners i.e. 5 Decimal, provisionally if the confiscating proceedings are pending until the proceedings are envisaged with due procedure of law.

(iii) Any other relief or relief (s) to which the petitioner may be found entitled in the facts and circumstances of the case.

2. Briefly stated, the facts of the case is that on 03.09.2024, Assistant Sub-Inspector Archana Sinha received a confidential information that four individuals were transporting liquor in bags from a train arriving from Gaya and would disembark at Hisua Railway Station. Accordingly a team was constituted but upon the arrival of the train, no individual was found as per description. Later, on, a spy had informed that the suspects had taken an alternative route and reached their respective homes. Acting



upon this information, the excise team raided the petitioner's house and apprehended the petitioner. On search of the premises, approximately 16.5 litres illicit liquor was recovered and seized. On the basis of the aforesaid facts, Nawada Excise P.S. Case No. 609 of 2024 dated 03.09.2024 was instituted under Section 30(a) of the Bihar Prohibition & Excise Amendment Act, 2022.

3. It is submitted by learned counsel for the petitioner that house of the petitioner which is the ancestral house was sealed on 05.09.2024 and at that time, the family members were present at the house but they were not given the seizure list nor they were made witness to the seizure list. From a bare perusal of the seizure list prepared on 03.09.2024, it is clear that a total of 1.5 litres of beer was seized by the police from the alleged seized premises. Moreover, the provisions of Sections 103 and 105 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 regarding search and seizure were not followed at all by the Police and thus the entire seizure is bad in law and illegal.

4. Learned counsel for the respondents submits that recovery of illicit liquor was made from the house of



the petitioner. The respondent authority was justified in taking action under the provisions of the Excise Act. However, the petitioner has alternative remedy to get the room of the marriage-hall unsealed after making payment of penalty in terms of Rule 12(B) of the Bihar Prohibition & Excise Rules, 2021.

5. From perusal of the record, it has transpired that alleged recovery of approximately 16.5 liter of illicit liquor has been made from the premises of the house of the petitioner. Moreover, for recovery of a meager quantity of illicit liquor from the premises of the petitioner and petitioner having no criminal antecedent, a penalty of Rs. 15,000/-(Fifteen Thousands) is appropriate in light of the facts and circumstances of the case for which petitioner has no objection.

6. We are conscious of the fact that alleged recovery is of meager quantity and the aforesaid order has been passed while invoking extra ordinary jurisdiction under Article 226 of the Constitution of India for the reasons that unnecessarily petitioner shall not be subjected to various proceedings like Rule of 12B of the Bihar



Prohibition and Excise Rules, 2021 read Sections 58, 92 and 93 of the Bihar Prohibition and Excise Act, 2016, for a trivial issue relating to seizure of 16.5 liters of illicit liquor and the aforesaid decision is warranted to prevent multiplicity of proceeding under Excise Act and Rules, in the interest of justice.

7. Considering recovery of small quantity of liquor, the petitioner is directed to deposit a penalty of Rs. 15,000/-(Fifteen Thousands) and the concerned authority is hereby directed to collect fine of Rs. 15,000/-(Fifteen Thousands) and unseal the premises of the petitioner, which has been sealed on 05.09.2024, within a period of one week from the date of receipt of this order.

8. Accordingly, the writ petition stands disposed of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15/05/2025
Transmission Date	N/A

