

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13111 of 2025

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Rakesh Kumar @ Rakesh Ranjan @ Rakesh Mandal, S/o Late Chand Kishor Prasad @ Chandeshwari Mandal, R/o Village- Khagraun, P.S.- Tetiyamber, District- Munger.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Government of Bihar, Old Secretariat, Patna.
2. The Assistant Commissioner (Excise), Munger.
3. The Collector-cum-District Magistrate, Munger.
4. The Superintendent of Police, Munger.
5. The District Supply Officer (Excise), Munger.
6. The Circle Officer, Tetiyamber, Munger.
7. The SHO, Harpur Police Station, District- Munger.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Raj Kishor Prasad, Adv.
For the Respondents : Mr. Santosh Chandra Bhaskar, AC to GP 11

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE SHAILENDRA SINGH)

Date : 28 -08-2025

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

“I. For issuance of writ of mandamus and any other appropriate writ or writs, order/orders, direction/directions to the respondent’s authority to release the premises/room/house of the petitioner bearing Mauza – Dhauri, Thana No. 343, Khata No.



51, Khesra No. 318, area 0.5 decimal, wherefrom it is alleged to be the recovery of 4 liters of illicit country-made Mahua wine.

II. For setting aside the order dated 28.01.2025 passed in Excise premises Confiscation Case No. 87/2025 passed by the District Magistrate, Munger by which the learned District Magistrate, Munger has directed to pay Rs. 1,00,000/- (One Lakh) fine for release of sealed Premises/room and deposit it in the office of Assistant Commissioner, Prohibition of Alcohol, Munger and obtain receipt.

III. For further direction/directions to waive the fine imposed upon the petitioner as a penalty as per Bihar Excise Amendment Act, 2016 (Amended on 2018/2022) as the petitioner belongs to a lower stratum of the society and has no other land except the present one.

IV. For any other appropriate order/orders and direction/directions befitting to the petitioner in the larger interest of natural justice.”



2. Briefly stated facts of the case are that while on routing patrolling duty, the informant received the secret information at the police station that illicit liquor was being stored and sold at the house of the petitioner. On such information, the police raided the house of the petitioner and recovered 04 litres of illicit liquor from his house. On the basis of aforesaid recovery, Harpur P.S. Case No. 85/2024 dated 12.08.2024 was registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016.

3. It is submitted by learned counsel for the petitioner that the petitioner has falsely been implicated in this case due to village politics at the behest of the influential persons of the village and no independent witness has put his signature on the seizure list. It is further submitted that the alleged place of recovery is a dwelling house in which all family members of petitioner are residing and no effort was made to ascertain whether the petitioner alone had possession over the place of recovery or knowledge of the alleged illicit liquor. The seizure list has been prepared without following the prescribed procedure of search and seizure and at the time of raid no respectable person of the village like, *Mukhiya*, *Sarpanch* or Ward Member was present which clearly shows the malafide intention of police personnel. The recovery of illicit liquor is only 4 litres, which is a meager



quantity. It is lastly submitted that on notice the petitioner appeared in Excise Confiscation Case No. 87/2025 and filed his reply with required documents but the learned District Magistrate, Munger has not considered his defense and passed the impugned order dated 28.01.2025 with a direction to him to deposit the fine amount of Rs. 1,00,000/- (one lakh) in the office of Assistant Excise Commissioner, Munger for unseal of his premises/ room, which is in violation of principles of natural justice.

4. Heard both the sides, perused the impugned order and relevant materials.

5. Considering the small quantity of liquor, the concerned authority is hereby directed to collect the fine of Rs. 10000/- (Ten Thousands) only from the petitioner and unseal the house of the petitioner within a period of one week from the date of receipt of this order, for which petitioner has no objection.

6. We are conscious of the fact that the alleged recovery is of meager quantity of liquor and the aforesaid order has been passed by this court while invoking extra ordinary jurisdiction under Article 226 of the Constitution of India for the reasons that unnecessarily petitioner should not be subjected to various proceedings like Rule of 12B of the Bihar Prohibition and Excise Rules, 2021 read with Rule 12B in the year 2022, Sections 58, 92



and 93 of the Bihar Prohibition and Excise Act, 2016, for an issue of recovery of only 04 litres of illicit liquor and such order is required to prevent the multiplicity of proceedings in the interest of justice.

7. Accordingly, the writ petition stands disposed of.

(Shailendra Singh, J)

I agree.

(P. B. Bajanthri, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	22.08.2025
Uploading Date	28.08.2025
Transmission Date	N.A.

