

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1640 of 2026

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1. Pappu Rai alias Jalaha alias Jarlaha S/O Mohan Ray, R/O Village - Sukmarpur Jafrabad Tok, Arazi Beshinao Barar, P.S. Raghampur (Rustampur O.P.), P.O. Jafrabad, District - Vaishali.
 2. Harivishun Rai alias Harebishun Ray alias Hare Vishnu Ray, S/O Ram Ji Ray, R/O Didarganj Dharamshala, Simli Murarpur, P.O. Katra Bazar Samiti, P.S. Didarganj, District - Patna.

... .. Petitioners

Versus

1. The State of Bihar through the Secretary Prohibition Excise and Registration Department (Excise).
2. The Director General of Police, Patna, Bihar.
3. The District Magistrate, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Rural Superintendent of Police, Patna.
6. The Sub-Divisional Police Officer (S.D.P.O.), Fatuha, Patna.
7. The S.H.O. Nadi (Riverine) P.S., Fatuha, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Ravish Mishra, Advocate
For the State	:	Mr. Anuj Kumar, Advocate, AC to GP-24

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and

HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 12-05-2026

Heard learned counsel for the petitioners and learned
counsel for the State.

2. The petitioners in this writ application are seeking
following reliefs:-

“(i) For commanding the Respondents to immediately
release the tractor of the petitioner No. 2, bearing
Registration No. BR01GK4248, having Chasis No.
T053532451LK and Engine No. -E3598237, along



with the Trailer having Registration No.-BR01GK4531 and Chasis No. MT1N0376, make Powertrack Company, which in an illegal and arbitrary manner has been seized pursuant to registration of the Nadi (Riverine) P.S. Case No. 315/2025 (Annexure P 1), dated 16.11.25, registered against the both the petitioners and co-accused - Rajnath Rai, apparently the driver of the said vehicle, for the offence as alleged under section 30(d) of the Bihar Prohibition and Excise (Amendment) Act, 2022, which is pending before the court of the learned Special Excise Court, Patna City.

(ii). For further directing the Respondents to take immediate and urgent steps so that the 58.75 quintals (5875 kgs) of the Gur/Jaggery/Mitha, amounting to about Rs. 2,26,187 (two lakhs twenty six thousand one hundred and eighty seven) seized by them of the petitioner No. 1, in the aforesaid concerning case which was loaded on the tractor, who is a businessman of repute, having a trade business in the name of Pappu Gud Bhandar, which is registered under Bihar Shops and Establishments Act, 1953, he is also having all the mandatory and registered papers and also pays all the concerning taxes, is released at once.

That at this juncture the petitioner No. 2 would like to draw the attention of this Hon'ble High Court that the police officials in a malicious manner in the seizure list has reflected the fact that only 4625 kgs of Gur/Jaggery/Mitha was loaded on the seized tractor and trailer, and in-turn at the initial stage has siphoned off near about 1250 kgs. of the same material, and has caused huge financial loss to the petitioner.

(iii). For seeking explanation from the state authorities as to why with an intention just to harass and humiliate the petitioners and earning unlawful gains, even without any recovery of illicit liquor has implicated



them in this false and fabricated case and has seized their belongings.

(iv). For directing the Respondent Nos. 5, 6 and 7, to properly investigate the illegal and motivated aforesaid case lodged in repercussion to the fact that previously also one false and illegal Raghopur (Rustampur O.P.) P.S. Case No. 246/2023, was initiated against the petitioner No. 1, in which his vehicle and materials were seized and for the release of the same he preferred one CWJ.C. No. 15589 of 2023 (D.B.) before this Hon'ble High Court and the same was allowed in his favour by an order dated 30.10.2024, passed by the co-ordinate bench of Hon'ble Mr. Justice P.B. Bajanthri and Hon'ble Mr. Justice S.B.Pd.Singh, and further the state respondents were directed to pay the invoice amount of Rs. 2,28,735/- to the petitioner. That in compliance to this order the then concerning police officials were directed to submit the invoice amount as stated above, which subsequently was paid to the same petitioner.

(v). For seeking explanation from the state respondents as to the method and procedures reverred by them in coming to a faulty conclusion that the seized Gud/Jaggery/Mitha, was apparently being used for manufacture of illicit liquor.

(vi). For making the respondents accountable to the fact that the two seizure lists prepared by them without following the mandatory provisions of section 105 of the B.N.S.S, 2023, have been manipulated as their own sweet convenience and will, so as to implicate and coerce the petitioners to submit to their demands and wishes.

(vii). For making the respondents accountable to the fact that the seized materials have been kept by them without any proper care and protection due to which



the same has deteriorated beyond usable state.

(viii). For any other reliefs which the Hon'ble High Court thinks proper and just in the facts and circumstances of this case.”

3. It is the case of the petitioners that on the basis of the First Information Report lodged by one Vinit Kumar (A.S.I. of the Nadi P.S.) on 16.11.2025 at 17.10 p.m., the tractor in question having a trailer loaded with 4625 kg of Mitha/Jaggery/Gud have been seized. Allegations have been made about seizure of the tractor with the Gud/Jaggery, but surprisingly two seizure lists have been prepared by the police. The first seizure list has been prepared on 16.11.2025 at 21.05 p.m. whereas the second seizure list has been prepared on 17.11.2025. In the second seizure list, 12 liters of country made liquor has been shown to be recovered from beneath the Sabalpur Six lane bridge.

4. Learned counsel for the petitioners submits that the seizure has not been recorded by police through audio-video electronic means, therefore, the entire search and seizure procedure is in violation of Section 105 of the Bharatiya Nagarik Suraksha Sanhita (in short 'BNSS'), 2023. It is submitted that the second seizure list is not connected with the present case even as the copy of the said seizure list has never been served upon the accused, who were apprehended by police



at the time of first seizure list, thus police is wrongly connecting the second seizure with the present case.

5. Learned counsel submits that the police officials acted in hot haste and on the same day within five minutes after lodging of the case in the police station, a confessional statement of the apprehended person was recorded. The said confessional statement has been used to prosecute the petitioners.

6. It is submitted that earlier by lodging a false case being Raghapur (Rustampur O.P.) P.S. Case No. 246 of 2024, the petitioner no. 1 was harassed. His vehicles and materials were seized by police. For release of the same, the petitioner preferred C.W.J.C. No. 15589 of 2024 (D.B.) before this Court which was allowed in favour of the petitioner of the said case vide order dated 30.10.2024. It is submitted that by an order of the learned co-ordinate Bench of this Court, in the said case, the state respondents were directed to pay the invoice amount of Rs. 2,28,735/- in relation to the goods to the petitioner. Learned counsel submits that after the aforesaid incident, the police developed a grudge against the petitioner and as his scope of business run both between Raghapur (Vaishali District) and Patna District, so they have initiated this case without any



credible evidences. Order of the writ Court passed in C.W.J.C. No. 15589 of 2024 has been brought on record as Annexure-'P/3'. In paragraph 10, 11 and 12 of the writ application, the petitioner has made the following statements:-

“...10. That the petitioner No. 1 is a businessman of repute, he runs a trade business in the name of Pappu Gud Bhandar, which is also registered under Bihar Shops and Establishments Act, his business spans in sale and purchase of Nitha/Gud/Jaggery and its ancillary items. That the business of the petitioner No. 1 is fully legal, for which he has complied with all the mandatory requirements and documentation, and since the commencement of his business he has been paying proper Income Tax Returns and is also filing his GSTR returns, all well within the timelines.

11. That on 14.11.25, i.e. two days prior to the present occurrence the petitioner No. 1 by a proper invoice has purchased 58.75 quintals (5875 kgs.) of Gud/Jaggery/Mitha, for an amount of Rs. 2,26,187/- (two lakhs twenty six thousand one hundred and eighty seven) from one Bikash Traders. That after receiving the same on the fateful day it was being unloaded and transported on the seized vehicle, which in a illegal and wrongful manner was seized by the police on the pretext that is being used for manufacture of liquor, and in the seizure list has been reflected just as 4625 kgs, and the police has siphoned off near about 1250 kgs. of the same material, for which actions prescribed under the law should be taken against them.

12. That the petitioner No. 1 is the genuine and bonafide owner of tractor bearing Registration No. BR01GK4248, having Chasis No.-T053532451LK



and Engine No.E3598237, along with the Trailer having Registration No. BR01GK4531 and Chasis No. -MT1N0376, make Powertrack Company, he is having all the relevant documents of the same inclusive of Registration and Insurance, Pollution Permit, and Certificate of Fitness, no incriminating articles or liquor were loaded on the same, and even then it has been seized under the Excise Act.....”

7. With reference to the pleadings available on the record in the writ application, learned counsel for the petitioners submits that in the kind of harassments being caused to the petitioners, the petitioners are seeking a direction to the respondent nos. 5, 6 and 7 to properly investigate the case. The respondents have not explained as to by which method or procedure, they have concluded that the seized gud/jaggery was apparently being used for manufacture of the illicit liquor.

8. A counter affidavit has been filed on behalf of the respondent no. 3 who is the Assistant Commissioner of Excise, Patna. In his counter affidavit, this respondent has taken a plea that on 02.03.2026, a proposal for confiscation has been received in his office and subsequently confiscation case proceedings were duly instituted vide Vehicle Confiscation Case No. 92/2025-26 (State Vs. Vishun Rai) and notice has been issued vide order dated 14.03.2026. It is submitted that the petitioners have alternative efficacious remedy by making an



application under Rule 12(B) of the Bihar Prohibition and Excise Rules, 2021.

9. A counter affidavit has also been filed on behalf of respondent nos. 4 to 6. It is stated that in course of search of the vehicle, approximately 125 bags of jaggery(gud), weighing about 4625 kilograms, Nausadar (ammonium chloride) used in fermentation process, plastic containers and materials used in preparation of illicit liquor and approximately 12 liters of country-made illicit liquor have been recovered. The condition of seized jaggery was found to be fermented/rotten, clearly indicating its intended use in illicit liquor manufacturing. It is stated that the entire search and seizure process was video-graphed and the same has been duly certified under Section 63 of the B.N.S.S. The seized samples were sent for chemical examination and the laboratory report confirms presence of Jaggery and Nausadar which are commonly used in fermentation process of illicit liquor. Learned counsel for the State submits that on the basis of the materials present on the record, a confiscation proceeding has been initiated.

10. We have heard learned counsel for the petitioners and the State as also perused the records. It is evident that the vehicle and the jaggery of which release is being sought for,



have been seized vide the seizure list prepared on 16.11.2025 at 21.05 hours at old NH-30 road Pakki Dargah. The person present in the vehicle, namely, Rajnath Ray was arrested. On perusal of the search memo, it would appear that it refers a case registered under Bihar Prohibition and Excise (Amendment) Act, 2022 under Section 30 (d). The articles seized are said to be 125 bags of gud which is used in making liquor. The quantity is 125X37 kg. The tractor and trailer have been seized for the evidence.

11. So far as recovery of Mahua liquor on 17.11.2025 is concerned, it has been recovered from a place under Sabalpur Six Lane Bridge. It is thus, evident that Mahua country made liquor was not being transported by the tractor in question. The substance like Nausadar and the packing plastics as also the gas cylinder and two big utensils have been shown recovered from the place under Sabalpur Six Lane Bridge. This seizure list is dated 17.11.2025 and it is evident on perusal thereof that the seizure list has not been served upon the arrested person in this case. Thus, the only article which has been found on the tractor is gud/jaggery. The respondents have not answered the specific averments made in paragraph 10, 11 and 12 of the writ application. Only an evasive reply has been given in paragraph-



16 of the counter affidavit filed on behalf of respondent nos. 4 to 6. It is evident that the Investigating Officer of the case has not questioned/challenged the invoices/bills which have been enclosed by the petitioners. In the counter affidavit, impression has been tried to be given that all the articles were recovered from the tractor and trailer which is not a correct fact. The counter affidavit talks of a laboratory report but no laboratory report has been brought on record. The pleadings present in the counter affidavit of respondent nos. 4 to 6 do not inspire confidence of this Court.

12. Having noticed the aforementioned facts and after making these observations, this Court finds that the 'Gud' is a perishable item and it is lying in the police station with the vehicle since 16.11.2025, already six months have gone past, therefore, it would not be appropriate to relegate the petitioners to an alternative remedy by making an application under Rule 12(B) of the Rules of 2021. In these facts, this Court directs immediate release of the 'Gud'/Jaggery with the tractor and trailer seized under the seizure list dated 16.11.2025.

13. Before release of articles and the vehicles, the I.O. shall prepare a Punchnama in presence of the two independent witnesses of both the vehicles as well as the articles. A copy of



the Punchnama shall also be made available to the petitioners. Photographs of the vehicles (tractor and trailer) and the articles would be taken and certified by the I.O. which would also be kept on record of the case before the learned jurisdictional court. The petitioners shall furnish an undertaking that they would not raise any question of identity with respect to the Punchnama and photographs, in course of the confiscation proceeding or in the trial. On furnishing this undertaking, the vehicles as well as the articles shall be released. Undertaking shall form part of the records of the confiscation case as well as the criminal case in the trial court. This exercise must be completed within 3 days from the date of receipt/production of a copy of the order.

14. Before we part with this judgment, it seems just and proper to direct the Senior Superintendent of Police, Patna to look into the matter and get verified the allegations of the petitioners that they are being harassed by police due to non-fulfillment of the illegal gratifications in course of their trade and business and because of the grudge developed due to previous direction of this Court in C.W.J.C. No. 15589 of 2024. Such verification shall be conducted through a responsible officer in the rank of Dy. S.P. of repute, posted in another police station jurisdiction.



15. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

priyanka/devendra-

AFR/NAFR	
CAV DATE	
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