

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5006 of 2026

Mukul Prasad Son of Late Shyama Nand Prasad, Resident of Flat No.- 303,
Sri Ram Enclave, R.N Singh Path, Vastu Vihar, Jamsout, Akluchak, Danapur,
District - Patna, Bihar-801503.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Excise and Prohibition Department, Government of Bihar, Patna having his office 176D, 1st floor, Vikash Bhawan, Bailey Road, Patna, Bihar - 800015.
2. The Excise Commissioner, Bihar Excise, Patna.
3. The Divisional Commissioner, Magadh Division, Patna.
4. The District Magistrate-cum-Collector, Patna.
5. The Superintendent of Excise, Madh Nishedh Bihar, Patna.
6. The S.H.O. of Excise, P.S. Patna.
7. The Investigating Officer, Excise and Prohibition Case no. 4393/2025 dated 25.12.2025, namely Md. Afashar Ali, S.I. Excise and Prohibition, P.S. Patna, District - Patna.
8. Deepak Kumar S/o- Dashrath Sah, Resident of Dwarika Nath Lane-3, Salimpur, Aahra, Colony No. 3, District-Patna, Bihar-80003

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Basant Kumar Singh, Advocate
		Mr. Vishesh Kumar Singh, Advocate
For the State	:	Mr. Subhash Prasad Singh, GA-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 24-04-2026 Heard learned counsel for the petitioner and learned
GA-3 for the State of Bihar.

2. This writ application has been filed seeking the
following reliefs:-

“(i) For issuance of writ/writs, order/orders,
direction/directions in the nature of Mandamus
seeking directions the respondents S.I. Madh



Nishedh Excise, P.S., Patna, so that to immediately release the seized shop, which was earlier given on rent to respondent no. 8, on rent each month Rs. 12000/- total area 250 sq. feet shop of the petitioner, which was earlier on rent utilized by the respondent no. 8, namely, Deepak Kumar but the same room was seized by the S.H.O. of Excise P.S., Patna in connection with Excise Patna P.S. Case-4393/2025 dated 25.12.2025 registered under Sections 30(A), 32, 41, 56(B) and 62 of Bihar Prohibition and Excise Act, 2016 and (Amendment) Act, 2022, which was illegally seized by the police.

(ii) For further prayed for directing the respondent to immediately release the shop, which was earlier seized by the police in Excise Case, but the petitioner is being the shop owner of the said premises, which was used by the respondent no. 8 after agreement on rent.

(iii) For further directing the respondent not to freeze/seize the shop of the petitioner which is subject matter of Excise Case which was seized by the S.H.O. of Excise P.S., Patna but that property which was utilised by the tenant that is respondent no. 8, so far, the petitioner was given the said property the shop on a rent on the basis of an agreement dated 03.04.2024 and in view of the under Section 45 of the Cr. P. C., the said shop order for custody and disposal property pending trial in certain cases be released in favour of the petitioner, because the petitioner has got no knowledge about the said shop, which was used by the tenant



respondent no. 8 and doing some illegal business having without knowledge of the petitioner.

(iv) For declaring that the action by the respondent authorities is against the mandatory principles and settled jurisprudence in addition to being in violation of the constitutional rights granted to the writ petitioner and not being permitted by the law of the land.

(v) For declaring and holding that the actions of the respondent authorities are mala fide, arbitrary, without jurisdiction as well as abuse of power and authority.

(vi) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of this case.”

3. Learned counsel for the petitioner submits that the liquors have been seized from the shop premises which has been rented out to Respondent No. 8. He is not an accused in the police case. It is the Respondent No. 8 alone who is being prosecuted for the possession of the liquors.

4. The petitioner is not aware whether any confiscation proceeding has been initiated or not.

5. In the given facts and circumstances of the case, we grant liberty to the petitioner to file an appropriate application in terms of Bihar Prohibition and Excise Rules, 2021 (as amended up to date) for unsealing of the premises, before the District Magistrate-cum-Collector, Patna or the Confiscating Authority,



if any, acting by virtue of the power conferred upon him under the law, giving complete facts and circumstances.

6. If any such application is filed within a period of 30 days from today, the District Magistrate-cum-Collector, Patna or the Confiscating Authority, as the case may be, shall consider the same and pass a reasoned order thereon within a period of two weeks from the date of filing of the application.

7. It is made clear that the concerned respondent or the Confiscating Authority while considering the application shall definitely look into the case of the petitioner that the shop in question was provided on rent to Respondent No. 8 and that he is not an accused in this case. If the statement of the petitioner is found to be correct, he shall not be burdened with any penalty as a condition precedent for release of the shop.

8. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

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