IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7349 of 2026

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Zast Logisolutions, Having its registered office at 309, Varhman Sundar Plaza, Plot No. 12, Sector 12, Dwarka, P.S. - Dwarka North, New Delhi - 110078, through the authorized signatory namely Amit Kumar Singh, Gender, Male, aged about 31 years, S/o Jay Bahadur Singh, C/o Gobari, Pratapgarh, P.O. Dobari, P.S. Antu, District- Pratapgarh, Pin Code- 230502.

... ... Petitioner

Versus

1. The State of Bihar through its Secretary, Prohibition, Excise and Registration Department, Government of Bihar.
2. The District Magistrate, Betiah (West Champaran), Bihar.
3. The Assistant Commissioner, Prohibition, Bettiah (West Champaran), Bihar.
4. The Officer-in-Charge, Muffasil Police Station, Bettiah (West Champaran), Bihar.
5. The Superintendent, Prohibition, Bettiah (West Champaran), Bihar.
6. The Deputy Superintendent of Police, Bettiah (West Champaran), Bihar.
7. The Senior Deputy Collector, Legal Branch, Bettiah (West Champaran), Bihar.
8. The Additional Collector cum Additional District Magistrate, Bettiah (West Champaran), Bihar.

... ... Respondents

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Appearance :

For the Petitioner	:	Mr. Amresh Kumar Sinha, Advocate Mr. Vaibhav Narayan, Advocate Ms. Deeksha, Advocate
For the State	:	Mr. Kumar Alok, S.C.-7

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 15-05-2026

Heard learned counsel for the petitioner and learned counsel for the State (SC-7).

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

"(I) For the issuance of appropriate writ/writs, order/orders, direction/directions in the nature of mandamus to release the rubber powder substance called Blowkem ADCL in favour of the petitioner, which was in transportation by petitioner's logistic company was illegally seized by the Respondent authorities.

(II) For the issuance of appropriate writ/writs, order/orders, direction/directions in the nature of mandamus directing the Respondent Authorities for payment of compensation to the Petitioner for the loss caused by the illegal seizure of the aforesaid rubber powder substance.

(III) For the issuance of appropriate writ/writs, order/orders, direction/directions in the nature of mandamus directing the Respondent Authorities to hand over the said seized items to the petitioner.

(IV) For the issuance of appropriate writ/writs, order/orders, direction/directions in the nature of mandamus directing the Respondent Authorities to pay the cost of litigation and the other costs to the Petitioner.

(V) For the issuance of appropriate writ/writs, order/orders, direction/directions in the nature of mandamus directing action against the erring officials.

(VI) For granting any other relief/reliefs to the Petitioner in order to do complete justice in the facts and circumstances of the case."

Brief Facts of the Case

3. The petitioner is a private limited company engaged in providing logistic services such as transportation of goods from one place to another. Some of the consignments of the petitioner were to be transported to Nepal.

4. It is the case of the petitioner that on 15.11.2025, the petitioner got the consignment order bearing no. ZS1095428 from M/s Chemico India Pvt. Ltd. (EXPORTER) having its registered office at Faridabad in the State of Haryana. The said consignment from Chemico India was meant to be delivered to M/s Goldstar Stride Limited having their registered office at Shankha Park, Maharajgunj, Kathmandu, Nepal. The value of the consignment was Rs. 17,50,000/-. The petitioner states that the said consignment essentially contained a rubber making powder and was to be delivered at a location in Kathmandu. It was dispatched by a truck bearing no. UP53FT5727 which was owned by one Jitendra. The owner of the truck was himself driving the truck when it was intercepted on 03.12.2025 by the police personnel from Muffasil P.S. Bettiah (West Champaran). The vehicle was found transporting 3100.320 liters of foreign liquor. On this truck only, the consignment of 280 bags of Blowkem ADCL measuring

7000 kilograms were kept and these were also under transportation.

5. In connection with the recovery of liquor, one First Information Report giving rise to Muffasil Bettiah (West Champaran) P.S. Case No. 576 of 2025 dated 03.12.2025 was registered for the offences punishable under Sections 318(4)/ 3(5) of the Bharatiya Nyaya Sanhita (in short 'BNS') and Sections 30(a)/ 41 of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act of 2016'). Copy of the FIR is Annexure- '5' to the writ application.

6. Learned counsel for the petitioner submits that the petitioner's company is neither concerned with the truck in question nor with the liquors recovered from the said truck. The company is only concerned with the consignment of rubber powder which was meant to be delivered in Kathmandu. In support of the claim of the petitioner, the petitioner has placed on record the tax invoice receipt bearing No. 204 dated 27.11.2025 (Annexure 'P/2'), photocopy of the commercial invoice bearing no. 08092501 dated 15.11.2025 (Annexure 'P/3'), e-way bill dated 27.11.2025 bearing no. 352134169093 (Annexure 'P/4').

Submissions on behalf of the Petitioner

7. Learned counsel for the petitioner submits that the petitioner firm, its manager or director are not accused in the Muffasil Bettiah (West Champaran) P.S. Case No. 576 of 2025 in connection with which the material has been seized. The submission is that the seizure of rubber powder is only illegal as it is not one of those things and items which are liable to be seized in terms of Section 57(B) of the Act of 2016. Referring to Sections 56 and 57(B) of the Act of 2016, learned counsel for the petitioner submits that on a bare reading of these provisions, it would appear that while Section 56 talks of confiscation of seized items and provides for those items which may be liable to be confiscated, Section 57(B) talks of things or premises liable to be released upon penalty. It is submitted that reading of these two provisions would show that only those animal, vehicle, vessel or other conveyances would be liable to be seized which are being used for committing any offence punishable under this Act. In this case by no stretch of imagination, the rubber powder which were the consignment meant for delivery in Kathmandu (Nepal) may be said to be used for committing any offence punishable under the Act of 2016. The petitioner prays for appropriate compensation for unlawful seizure.

It is submitted that after seizure the rubber powder are lying on the vehicle which is standing in the premises of the police station and with every passing day losing its worth and utility. In such circumstance, this Court may direct the respondents to release the rubber powder immediately without any penalty.

8. Learned counsel further submits that since the consignment in question has not been recommended for confiscation, the provisions relating to release of the goods and articles seized in connection with the offence as provided under the Bihar Prohibition and Excise Rules, 2021 (hereinafter referred to as the 'Rules of 2021') (as amended up-to- date) on payment of penalty would not be applicable in case of the petitioner.

9. Learned counsel for the petitioner submits that under Section 95 of the Act of 2016 (as amended up-to-date), the State Government has been empowered to make rules to carry out the purposes of the Act. The Government of Bihar has framed Bihar Prohibition and Excise Rules 2021, which has been amended from time to time (as amended up-to-date). It is submitted that Rule 12A has been inserted vide Amendment Rules, 2021. It provides for release of vehicle and goods, etc., on payment of penalty. Learned counsel submits that on bare reading of Rule 12A, it would appear that it talks of seizure of the vehicle, conveyance, vessels, animals, etc., by any police or Excise Officer under the Act. It provides for release of the said vehicles or of the said conveyance or vehicle upon payment of penalty, as may be ordered by the Collector or the Officer authorized by law. The amount of penalty is to be quantified keeping in view the quantity of intoxicant recovered, involvement of the vehicle owner and the latest insurance value of the vehicle. The penalty cannot be less than ten percent of the insured value of the vehicle and more than Rs. 5 lakhs. Since, in this case, the petitioner is not looking for release of the vehicle in question and he is only concerned with the goods which are rubber powder, not connected with any offence under the Act of 2016, Rule 12A would not be available to the petitioner for release of the goods. It is his submission that by virtue of Section 60 of the Act of 2016 (as amended up-to-date), the Special Exclusive Excise Court's power to release the conveyance, vessels, animals, vehicles, etc., seized in connection with an offence under the Act of 2016 as amended up-to-date has been taken away. It is submitted that the learned Special Court is normally not entertaining any application for release of vehicle, conveyance, goods, etc., even as those are not liable to be seized or confiscated in connection with an offence under the Act of 2016 as amended up-to-date. It is for this reason, the petitioner has approached this Court directly under Article 226 of the Constitution of India.

10. It is further submitted that recently this Court, while hearing **CWJC No. 5044 of 2016 (Sonu Kumar Rai vs. The State of Bihar and Ors.)** has taken a view that seizure of a vehicle which was not carrying any liquor is illegal and in such a case where the investigating agency has taken a view that the vehicle is not liable to be seized and no confiscation proceeding has been recommended against the vehicle, the owner of the vehicle would be within his rights to approach the learned Special Exclusive Excise Court for release of the vehicle.

Submissions on behalf of the State

11. Mr. Kumar Alok, learned SC-7 submits that since the consignment of the petitioner has not been recommended for confiscation and no confiscation proceeding is pending, the petitioner may file an appropriate application in the Court of learned Special Exclusive Excise Judge within whose jurisdiction the FIR and seizure list have been submitted, seeking release of the goods. On filing of such application, the Court would be in a position to call for a report from the investigating officer and on receipt of the report, an appropriate order may be passed by the Court.

12. Learned counsel submits that as regards, the jurisdiction and power of the special Court in the matter of release of the articles which have been seized in connection with a case registered under the provisions of the Act of 2016, the legislature has in their wisdom, made a special provision under Section 60 of the Act of 2016 whereunder a bar of jurisdiction has been created on the power of the Court to make any order with regard to the property under seizure. However, in this case, because the property in question is not liable to be confiscated and no recommendation for confiscation has been made, Section 60 of the Act of 2016 would not come in the way of the petitioner in seeking his remedy before the regular Court i.e. the learned Exclusive Special Judge, Excise, West Champaran, Bettiah.

13. In course of hearing, this Court has got occasion to discuss the import of Section 60 of the Act of 2016 vis a vis Section 457 of the Code of Criminal Procedure. This Court invited the Members of the Bar such as Mr. Prabhu Narayan Sharma, learned AC to AG and Mr. Ajay Mishra, learned Additional Public Prosecutor to take their views also on this point. This Court would briefly deal with the provisions of law relating to seizure and release of the goods/vehicles etc. which have been seized in connection with the case under the Excise Act.

14. Learned counsel for the State as well as the learned Members at the Bar have expressed their views on the applicability of Section 60 of the Act of 2016 (as amended up-to-date). It is their common opinion that in the case of the present nature where the rubber powder is under transportation on a truck and it is a consignment having all valid papers, the products such as rubber powder cannot be said to be involved in facilitating transportation of illicit liquors. It will not be covered under Section 57B of the Act of 2016.

Consideration

15. Having heard learned counsel for the petitioner and learned counsel for the State as also the learned Advocates at the Bar, we agree with the opinion expressed by learned counsel for the State and learned Advocates at the Bar. The erstwhile Section 457 of the Code of Criminal Procedure is now Section 503 of the Bharatiya Nagarik Suraksha Sanhita (in short 'BNSS'). Section 503 of BNSS reads as under:-

> "**503. Procedure by police upon seizure of property.** (1) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Sanhita, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such

> property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.
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> (2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation."

16. The Act of 2016 has been brought into existence to enforce, implement and promote complete prohibition of liquor and intoxicants in the territory of the State of Bihar. The Act provides for a uniform law relating to prohibition and regulation of liquor and intoxicants, levy of duty thereunder and punishment for violation of law in the State of Bihar. Section 60 of the Act of 2016 is being extracted hereunder for a ready reference:-

> "**60. Bar of jurisdiction in confiscation.-** Whenever any liquor, material, still, utensil, implements or apparatus or any receptacle, package, any animal cart, vessel, or other conveyance used in committing any offence, is seized or detained under this Act, no court shall

> have, notwithstanding anything to the contrary contained in any other law for the time being in force, jurisdiction to make any order with regard to such property."

17. In view of the specific bar created under Section 60 of the Act of 2016, it is stated that the Special Exclusive Excise Courts in the State of Bihar are not entertaining any application for release of any material, vessels, conveyance, etc. A bare reading of Section 60 would show that the bar of jurisdiction has been created in respect of only those materials, packages, vessels, conveyance which are used in committing any offence and is seized or detained under the Act of 2016. Section 60 does not create any bar in the matter of jurisdiction of the Special Exclusive Excise Court to make any order with regard to any property which is not used in committing any offence under the Act of 2016 (as amended up-to-date). The fine line of distinction is required to be made in order to remove the difficulties and hardships which may be created by Section 60 of the Act of 2016, if it is not read carefully.

18. At this stage, we take a glance over the provisions relating to release of vehicles, goods, vessels etc. which are liable to be confiscated. Rule 12A and Rule 12B of the Rules of 2021 are being reproduced hereunder:-

"[2][**12A. Release of Vehicles, Conveyance etc. on Payment of Penalty.—** (1) If any vehicles, conveyance, vessel, animal etc. has been seized by any police or excise officer under the Act, then in terms of Section 57B (1) of the Act, the Collector or an officer authorized by him upon receipt of an application in Form IV by the owner of the said conveyance or vehicle etc., may release the said conveyance or vehicle upon payment of such penalty as may be ordered by the Collector or the officer authorized by him.

Provided, where it is not possible to ascertain the owner of the vehicle or the owner is not coming to claim the vehicle, the Collector or the officer authorized by him, after waiting for 15 days from the date of seizure, shall proceed to confiscate and auction the vehicle as per the provisions of the Act.

[3][(2) The amount of penalty shall be as decided by the Collector or the Officer authorized by him. While imposing the penalty, he shall have due regard to the quantity of intoxicant recovered, involvement of the vehicle owner and the latest insurance value of the vehicle. In no case, the penalty should be less than 10% of the insured value of the vehicle and more than Rs. 5 lakhs. The insured value is the value of the vehicle as assessed by the insurance company. Where, the insured value is not available or the Collector or the Officer authorized by him has reason to believe that the vehicle is undervalued, he shall get the valuation done by the District Transport Officer.

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2. Ins. by Amdt. Rules 2022, vide Notifn, No. 2458, dated 5.4.2022.
3. Subs. by Amdt. Rules, 2023, vide Notifn. No. 3671, dated 31.5.2023.

In any case, the Collector shall not wait beyond 15 days from the date of seizure and if during this period, the accused/owner does not pay up the penalty, he shall proceed with the confiscation/auction.]

(3) Notwithstanding above, if on a report by police officer or excise officer, the Collector or the officer authorized by him is satisfied that releasing the vehicle or conveyance shall not be in the public interest, he shall proceed ahead with the confiscation of the said vehicle or conveyance and its subsequent auction/disposal.

(4) Where the conveyance is such that its valuation/insurance is not possible, the Collector or the officer authorized by him shall impose such fine as he deems fit. While imposing such fine, the Collector or the officer authorized by him shall have due regard to the economic status of the individual, nature of his involvement in the crime and the quantum of intoxicant recovered.

(5) Such penalty shall be, regardless of the outcome of the trial if any, before the Special Court, nonrefundable.

(6) The owner of the vehicle/conveyance shall, after the release of the vehicle/conveyance, produce the vehicle/conveyance as and when required by the authorities.

Explanation. – In all pending/ongoing cases of confiscation/auction of vehicles, the Collector or the officer authorized by him may give an opportunity to the existing owner to pay the aforesaid penalty and get the vehicle released. Upon satisfaction about ownership and upon payment of such penalty, the ongoing confiscation/auction proceeding may be dropped and the vehicle released.]

[1]**[12B. Release of Premises on Payment of Penalty:** – (1) If any premises or part thereof has been seized or sealed by any police or excise officer under the Act, then in terms of section-57B (2) of the Act, the Collector or an officer authorized by him, upon receipt of an application in **Form V** from the owner of the said premises, may release or unseal the said premises or part thereof upon payment of such penalty as may be ordered by the Collector or the officer authorized by him.

Provided, where it is not possible to ascertain the owner of the premises or the owner is not coming forward, the Collector or the officer authorized by him shall, after waiting for 15 days from the date of seizure/sealing, proceed to confiscate the premises as per the provisions of the Act.

(2) The Collector or the officer authorized by him shall have due regard to the economic status of the individual, nature of his involvement in the crime, location of the premises and the quantum of intoxicant recovered while deciding the quantum of fine to be paid by the individual. However, the fine shall not be less than Rs. one Lakh in any case.

In any case, the Collector shall not wait beyond 15 days from the date of seizure/sealing and if during this period, the accused/owner does not pay up the penalty he shall proceed with the confiscation/auction.

1. Ins. by Amdt. Rules, 2022, vide Notifn. No. 2458, dated 5.4.2022.

> (3) Notwithstanding above, if on a report by police officer or excise officer, the Collector or the officer authorized by him is satisfied that releasing the premises shall not be in the public interest, the Collector or the officer authorized by him shall proceed ahead with the confiscation of the said premises or part thereof and its subsequent auction/disposal.
>
> (4) Such penalty shall be, regardless of the outcome of the trial if any, before the Special Court, nonrefundable.
>
> (5) The owner of the Premises shall, after the release of the premises, allow the inspection of the premises as and when desired by the authorities.
>
> ***Explanation:* –** In all pending/ongoing cases of confiscation/auction of premises, the Collector or the officer authorized by him may give an opportunity to the existing owner to pay the aforesaid penalty and get the premises released. Upon satisfaction of ownership and upon payment of such penalty, the ongoing confiscation/auction proceeding may be dropped and the premises released."

19. On going through these provisions, it is evident that these rules are applicable in respect of the things or premises which are liable to be released upon penalty as envisaged under Section 57B of the Act of 2016 (as amended up-to-date). In a case of the present kind where the product under seizure is rubber powder which is not liable to be seized or confiscated and no confiscation proceeding has been recommended, we find no reason to take a view that the owner of the goods would be liable to pay penalty for its release.

20. We are of the considered opinion that the jurisdiction of the Exclusive Special Excise Courts to entertain an application for release of such goods, vehicles etc. which are not used in committing any offence under the Act of 2016, hence, not liable to be seized or confiscated, cannot be ousted by virtue of Section 60 of the Act of 2016. It is only when the things or premises which are used for committing any offence punishable under the Act of 2016 and has been seized by any police officer or Excise Officer may be released on payment of penalty. By virtue of sub-section (3) of Section 57B of the Act of 2016, if the person concerned does not pay the penalty, then the Collector shall proceed to confiscate the said animal, vehicle, vessel or other conveyance and premises as per Section 58.

21. In the present case, we conclude that the rubber powder in form of a consignment duly supported by all valid documents has not been used for committing the offence under the Act of 2016 (as amended up-to-date). For arguments sake, even if it is found that the liquors were kept concealed below/under the consignment bags of rubber powder, it would be a far-fetched imagination to say that the rubber powder was used for committing the offence. In fact, we say so only for a clarity, the fact remains that in this case, there is no recommendation for confiscation of the rubber powder.

22. In view of the discussions made hereinabove, we are of the considered opinion that the remedy of the petitioner would lie before the Exclusive Special Judge Excise, West Champaran, Bettiah. The petitioner is at liberty to file an application before the Court seeking release of the goods in question. If such an application is filed together with the papers of consignment, the same will be considered on its own merit by the learned Court. The application shall not be rejected on the ground of bar of jurisdiction. Keeping in view that the rubber powder is lying under open sky and losing its utility day by day, an appropriate order shall be passed thereon within a period of fifteen (15) days from the date of filing of the application.

23. This writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

priyanka/Sushma-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	22.05.2026
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