IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 13594 of 2025

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Sri Binod Singh Son of Late Abadh Vihari Singh, Resident of Mohalla-Anandpuri House No.- 62, West Boring Canal Road Ward No. 22, P.S.- Sri Krishnapuri, District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Prohibition Excise and Registration Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Prohibition Excise and Registration Department, Government of Bihar Patna.
3. The Secretary (Excise and Prohibition), Bihar, Patna.
4. The Excise Commissioner, Prohibition Excise and Registration Department, Government of Bihar, Patna.
5. The District Magistrate Cum Collector, Patna.
6. The Sub-Divisional Magistrate, Patna Sadar, Patna.
7. The Senior Superintendent of Police, Patna.
8. The Nodal Officer, Excise Kosank (Cell), Patna.
9. The S.H.O., Excise P.S., Patna Sadar, Patna.
10. The Investigating Officer, Excise, P.S., Patna Sadar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amit Kumar, Advocate
For the Respondent/s	:	Mr. Mujiabaul Haque, GP-12

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 30-03-2026

The present writ petition has been filed challenging the order dated 14.12.2024, passed by the learned Court of Collector-cum-District Magistrate, Patna in Confiscation Case No. 2381/2024-25 whereby and whereunder the room in question belonging to the petitioner has been confiscated. The petitioner has also challenged the appellate order dated 7.5.2025 passed by the learned Commissioner, Excise, Bihar Patna in Excise Appeal Case No. 52 of 2025 whereby and whereunder the appeal has been dismissed. Lastly, the petitioner has challenged the revisional order dated 26.06.2025 passed by the learned Secretary (Prohibition and Excise) Bihar, Patna in Excise Revision Case No. 17 of 2025 whereby and whereunder the revision petition has been dismissed and the appellate order dated 07.05.2025 has been upheld.

02. The case in brief according to the informant of the connected FIR, namely Inspector of Police, Patna who has filed a complaint dated 31.07.2024 before the Officer-in-Charge, Prohibition Police Station, Patna is that on 31.07.2024 at about 08:30 PM while he was getting ready to go to his house, he suddenly received an information to the effect that illicit liquor has been stored in one room of the House situated at Manorama Apartment, Boring Canal Road, Patna, whereafter a raid was conducted and 61.875 litre of illicit liquor was recovered as also one Sudhir Kumar was arrested from the spot who is stated to be the tenant in one room of the house of the petitioner, whereupon Patna Sadar (Excise) P.S. Case No. 1815 of 2024 dated

31.07.2024 was registered under Section 30(a), Section 56(b) and Section 62 of the Bihar Prohibition and Excise Act, 2016 and Amendment Act, 2022 (hereinafter referred to as the “Act, 2016”). It appears that the learned Collector-cum-District Magistrate, Patna had initiated confiscation proceeding vide Excise Confiscation Case No. 2381 of 2024-25 wherein he has come to a conclusion that 61.875 litre of illicit liquor has been recovered from the room in question, hence there is no other alternative but to confiscate the room in question and accordingly has passed an order dated 14.12.2024 confiscating the room in question. On account of there being some typographical mistake in the aforesaid order dated 14.12.2024, learned Collector-cum-District Magistrate, Patna vide order dated 10.02.2025 has corrected the Khata No., Khesra No., name of the Mauza and other details pertaining to the room in question. The petitioner had then challenged the aforesaid order dated 14.12.2024 by filing an appeal bearing Excise Appeal Case No. 52 of 2025 before the learned Commissioner, Excise, Bihar, Patna however the same has been dismissed vide order dated 07.05.2025. The said order dated 07.05.2025 was then challenged by the petitioner by filing a revision petition bearing Excise Revision Case No. 17 of 2025 however, the same has also stood dismissed by an order dated 26.06.2025, passed by the Secretary (Prohibition and Excise) Bihar, Patna.

03. The learned counsel for the petitioner has submitted that admittedly neither the petitioner was found at the place of occurrence nor the excise FIR in question has been lodged against the petitioner nor there is any whisper in the counter affidavit filed by the respondents in the present case that the petitioner was engaged in stacking of illicit liquor or was in any manner connected with the alleged occurrence in question. It is also submitted that the said accused person namely, Sudhir Kumar is the tenant of the petitioner and he along with one Rahul Kumar had taken the room in question on rent, whereafter the said Rahul Kumar had paid half the amount of rent, however regarding the other half, he had stated that he would bring the same after getting it from his father and deposit the same but during the interregnum period, the aforesaid excise FIR was lodged and the said Sudhir Kumar, who has been made an accused in the said case was arrested.

04. The learned counsel for the petitioner has, at this juncture advanced another argument to the effect that as per Rule 13B (vii) of the Bihar Prohibition and Excise (Amendment) Rules, 2022 (hereinafter referred to as "the Rules,

2022"), the concerned officer is required to ensure that the order of confiscation of premises in question is passed within 90 days from the date of seizure/sealing of the premises. In the present case, though the premises was sealed on 31.07.2024 and period of 90 days expired on 01.11.2024 however, the order of confiscation has been passed by the Ld. Collector on 14.12.2024 i.e., after expiry of 90 days. In this connection, reference has been made to a judgment dated 23.12.2025, rendered by a Coordinate Bench of this Court in the case of ***Sunita Sinha Vs. State of Bihar and Ors. (CWJC No. 19581 of 2021)***, relevant portion whereof is being reproduced herein below:-

> *"We only hope and expect that the Authorities under the Act shall take appropriate action at the earliest and in accordance with law, within the time schedule fixed, failing which the vehicle/property/things liable for confiscation shall be deemed to have been released without any further reference to this Court."*

Thus, the learned counsel for the petitioner, relying on the aforesaid judgment rendered in the case of ***Sunita Sinha*** *(supra)* submits that the room/premises in question be released.

05. *Per contra*, the learned counsel for the respondents has submitted by referring to the counter affidavit filed in the present case that on account of recovery of 61.875 litre of illicit liquor, the room in question has been confiscated. It is further

submitted that even for the sake of argument, if it is admitted that the premises in question was duly let out on rent, it still remains the duty of the petitioner to ensure that no illegal activity is carried out in the said premises including that of stacking of illicit liquor. It is also submitted that the petitioner has failed to support his claim of having rented out the room in question to the aforesaid tenants, hence the present writ petition is bereft of any merit and is liable to be dismissed.

06.We have heard the learned counsel for the parties and perused the materials on record from which it is apparent that the present case arises out of Patna Sadar (Excise) PS Case No. 1815 of 2024 dated 31.07.2024, registered under Section 30(a), Section 56(b) & Section 62 of the Act, 2016/ Amendment Act, 2022 against Sudhir Kumar on account of recovery of 61.875 litre of illicit liquor from him as also from the room in question and the said Sudhir Kumar was arrested from the spot. At this juncture, we would like to advert to the provisions contained in the Act, 2016, as amended upto date, Sections 30, 56, 57B and 58 whereof being relevant are being reproduced herein below:-

> *"**30. Penalty for unlawful manufacture, import, export, transport, possession, sale, purchase, distribution, etc. of any intoxicant or liquor. -***
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> *Whoever, in contravention of any provision of this Act or*

of any rule, regulation, order made, notification issued thereunder, or without a valid license, permit or pass issued under this Act, or in breach of any condition of any license, permit or pass renewed or authorization granted thereunder –

(a) Manufactures, possesses, buys, sells, distributes, collects, stores, bottles, imports, exports, transports, removes or cultivates any intoxicant, liquor, hemp; or

(b) Constructs or establishes or works in any manufactory, distillery, brewery or warehouse; or

(c) Manufactures, uses, keeps or has in his possession any material, utensil, implement or apparatus, or uses any premises, whatsoever, for the purpose of manufacturing any intoxicant or liquor; or

(d) Manufactures any material or film either with or without the State Government logo or logo of any State or wrapper or any other thing in which liquor or intoxicant can be packed or any apparatus or implement or machine, for the purpose of packing any liquor or intoxicant; or

(e) Removes any liquor or intoxicant from any distillery, brewery, warehouse, other place of storage licensed, established, authorized or continued under this Act; or

(f) Manufactures, possesses, sells, distributes, bottles, imports, exports, transports or removes, any preparation made with or without the use of any intoxicant or liquor, which can serve as an alcohol or a substitute for alcohol and is used or likely to be used or consumed for the purposes of getting intoxicated;

shall be punishable with imprisonment for the term which may extend to life and with fine which may extend to ten lakh rupees.

Provided that the punishment:

(a) For the first offence shall not be less than five years imprisonment and fine of not less than one lakh rupees, and

(b) For the second and subsequent offences shall not be less than ten years rigorous imprisonment and fine of not less than five lakh rupees".

56. Confiscation of Seized Items.-

(1) Notwithstanding anything contained in Section 57B, whenever an offence punishable under this Act, is committed, the Collector or an Officer authorized by him may confiscate such items based on the report of the investigating officer.

(2) Such items may include-

(i) any premises or part thereof;

(ii) any animal, vehicle, vessel or conveyance;

(iii) any liquor or intoxicant;

(iv) any other item having bearing with the case; Provided, where things as mentioned in Section 57 are to be destroyed, then the Collector or an officer authorized by him need not confiscate the same before their destruction.

(3) The State Government may issue necessary direction, guidelines, regulations and instructions with respect to the mode and manner of search, seizure, destruction and confiscation.

57B. Things or premises liable to be released upon penalty.-

(1) Any animal, vehicle, vessel or other conveyance used for committing any offence punishable under this Act that has been seized by any police Officer or Excise Officer may be released by the Collector upon payment of such penalty as may benotified by the State Government.

2. Any premises or part thereof used for committing any offence punishable under this Act that has been seized by any police Officer or Excise Officer may be released by the Collector upon payment of such penalty as may be notified by the State Government.

(3) 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.

58. Confiscation by District Collector. -

(1) Notwithstanding anything contained in this Act or any other law for the time being in force, where anything liable for confiscation under this Act is seized or detained under the provisions of this Act, the officer seizing and detaining such property shall, without any reasonable delay submit a report to the District Collector who has jurisdiction over the said area;

(2) On receipt of the report under subsection(1), the District Collector if satisfied that an offence under this Act has been committed, may, whether or not prosecution is instituted for the commission of such an offence and whether or not a case is pending before any court, order confiscation of such property;

(3) The Collector shall, before passing an order under subsection (2), give a reasonable opportunity to the person concerned, of being heard;

(4) While making an order of confiscation under subsection (2), the District Collector may also order that such of the properties which the order of confiscation relates, which in his opinion cannot be preserved or are not fit for human consumption, be destroyed. Whenever any confiscated article has to be destroyed in conformity with these provisions, it shall be destroyed in the presence of an Executive Magistrate or officer ordering the confiscation or forfeiture, asthe case may be, or in the presence of the Excise Officer not below the rank of a Sub Inspector;

(5) While making an order of confiscation under subsection (2), if the District Collector is of the opinion that it is expedient in the public interest to do so, he may order the said property or any part thereof to be sold by public auction or dispose of departmentally and proceeds

deposited with the State Government;

(6) The District Collector shall submit a full report of all particulars of confiscation to the Commissioner of Excise within one month of such confiscation".

07. We would also like to refer to Rule 12B and 13B of the Bihar Prohibition and Excise (Amendment) Rules, 2022.

"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.

(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.

13B. Procedure of confiscation of Premises.-

(1) Where it is decided by the Collector that the premises is not to be released on penalty or where the owner does not pay the required penalty, the confiscation proceeding shall be initiated. The proposal for confiscation of the premises shall be sent by the police/excise officer to the Collector (or an officer authorized by him) within 30 days from the date of seizure/sealing. The officer concerned shall immediately start the confiscation proceeding. In case of delay of beyond 30 days, in submission of the proposal for confiscation, the police/excise officer will have to explain the delay.

(2) The officer concerned, on receipt of proposal ofconfiscation of any premises or part thereof any property liable for confiscation from police/excise officer, shall issue show cause notice to the owner(s) of the premises or property. Simultaneously, he shall issue notice to the Chemical Examiner and/or such revenue officers for their reports.

(3) Such notice issued by the officer shall be served as per procedure prescribed in the Code of Criminal Procedure, 1973 for service of summons.

(4) The officer shall provide reasonable opportunity of hearing to the owner(s) of the premises or property. The investigating/inquiry officer shall also be given opportunity to participate in such hearing.

(5) If the person to whom notice has validly been served fails to appear in the proceeding on two consecutive dates fixed for hearing, the confiscating authority shall proceed to pass the order ex-parte.

(6) The officer shall, after hearing the parties, pass appropriate order of confiscation or unsealing, as the case may be, with respect to sealed/seized premises or property on the basis of his satisfaction whether an offence has been committed or not in terms of the Act.

(7) The officer shall ensure that the order for confiscation is passed within 90 days from the date of seizure/sealing of the premises.

(8) Any person aggrieved by the order passed by the Collector under the provisions of the Act may file appeal

in the manner prescribed under these rules."

08. A bare perusal of the aforesaid statutory provisions would show that a premises or part thereof used for committing an offence under the Act, 2016 can be sealed/confiscated but the same can be released upon payment of penalty, however while deciding the quantum of fine to be paid by the individual, due regard has to be given to the economic status of the individual, nature of his involvement in the crime, location of the premises and the quantum of intoxicant recovered. Moreover, before passing an order of confiscation or unsealing, as the case may be, with respect to the sealed/seized premises or property, the concerned officer has to be satisfied as to whether an offence has been committed or not in terms of the Act, 2016. Thus, it is apparent from the statutory provisions contained in the Act, 2016 and the Rules framed thereunder that direct involvement or connivance of the owner of the premises in question in illegal use of such premises for stacking illicit liquor is an essential prerequisite for seizure and confiscation of the premises in question or imposing any penalty for release of the same.

09. Now coming back to the present case, we find that neither the petitioner has been made an accused in the aforesaid criminal case nor any recovery of illicit liquor has been made

from his possession nor the respondents have produced any material in the counter affidavit to show either the involvement or connivance of the petitioners in the alleged occurrence. Moreover, there is no proof on record to show that either the petitioner was having any connection with the accused namely Sudhir Kumar or he was instrumental in the alleged occurrence or he was having direct/indirect involvement or connivance in illegal use of the aforesaid premises for stacking illicit liquor. We find that the action of the State authorities in sealing the premises in question and initiating confiscation proceedings is arbitrary and hit by Article 14 of the Constitution of India. It is also violative of the constitutional right of the petitioner to hold property as provided for under Article 300 A of the Constitution of India which prohibits any deprivation of the property save by the authority of law. Thus, we are of the considered view that the Act, 2016 in no way authorizes the officials to seize the premises in question in the facts & circumstances of the present case, hence the seizure & the proceedings initiated for confiscation of the premises in question is without any authority of law.

10. Accordingly, we set aside the order dated 14.12.2024 passed by the Ld. Court of Collector-cum-District Magistrate, Patna whereby and whereunder the room in question belonging

to the petitioner has been confiscated, the order dated 07.5.2025 passed by the learned Commissioner, Excise, Bihar, Patna whereby and whereunder the appeal has been dismissed as also the order dated 26.06.2025 passed by the learned Secretary (Excise and Prohibition) Bihar, Patna whereby and whereunder the revision petition has been dismissed and direct for de-sealing and release of the room in question in favor of the petitioner upon the State authorities being satisfied about the ownership of the petitioner with regard to the room/premises in question, within a period of two weeks of receipt/production of a copy of this order.

11. The writ petition stands allowed.

(Mohit Kumar Shah, J)

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	10.04.2026
Transmission Date	N/A