

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16967 of 2025

Karu Pasi @ Karu Chaudhari, Male, Son of Late Radho Pasi @ Radho Chaudhari, Resident of Village - Akauna Bazar, Police Station- Mufassil, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The District Magistrate-cum- Collector, Nawada, Bihar.
3. The Additional District Magistrate-cum- Collector, Nawada, Bihar.
4. The Superintendent of Police, Nawada, Bihar.
5. The Circle Officer, Nawada, Bihar.
6. The S.H.O., Excise Police Station, Nawada, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Advocate

For the Respondent/s : Mr. Jai Prabhat Kishore, AC to SC 13

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 16-02-2026

The present writ petition has been filed for de-sealing and release of the house of the petitioner situated at Mauza- Akauna Minhai, P.S.-Mufassil, District-Nawada, appertaining to Khata No.-32, Khesra No.-216, admeasuring 7 decimal which has been sealed in connection with Nawada Excise P.S. Case No. 36 of 2025. The petitioner has also prayed for quashing of the confiscation proceedings initiated by the respondents *vide* Case



No.15 of 2025, which is pending consideration before the learned Court of Additional District Magistrate, Nawada.

2. The brief facts of the case are that one Nawada Excise P.S. Case No.36 of 2025 dated 19.01.2025 was registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act, 2016') against one Pappu Chaudhary (son of the petitioner) on account of recovery of 5 liters of illicit country made liquor from one room situated in the aforesaid house of the petitioner.

3. The learned counsel for the petitioner has submitted that the petitioner has not been made an accused in the aforesaid criminal case and moreover, the petitioner is not having any connection with the illicit liquor seized from the room of the house of the petitioner in question. It is also submitted that the petitioner cannot be saddled with the liability of the act committed by his son, inasmuch as he was neither having any knowledge about the illicit liquor having been stacked by his son nor any material has been brought forward on the records of the case to show the complicity of the petitioner in the alleged occurrence. It is thus submitted that the house in question be released in favor of the petitioner and the confiscation proceedings be quashed.



4. *Per contra*, the learned counsel for the respondent-State has submitted that a raid was conducted in the house in question and from one room of the said house five liters of illicit country made liquor has been recovered, hence the room in question was sealed, whereafter confiscation proceedings have been rightly initiated. It is further submitted that the petitioner has not yet filed any application for release of the premises in question upon payment of penalty under Rule 12 A of the Bihar Prohibition and Excise (Amendment) Rules, 2022, hence as and when the same is filed, appropriate decision shall definitely be taken. Nonetheless, at this juncture, upon a query being put to the learned counsel for the respondents as to whether any proof has been brought on record in the counter affidavit to show either the connivance or direct/indirect involvement of the petitioner in the alleged occurrence, the answer is in the negative.

5. We have heard the learned counsel for the parties and perused the materials available on record from which it is apparent that the present case arises out of Nawada Excise P.S. Case No.36 of 2025 dated 19.01.2025, which has been registered under Section 30(a) of the Act, 2016 against one Pappu Chaudhary (son of the petitioner) on account of recovery of 5 liters of illicit country made liquor from a room of the house in question. At this juncture, we



would like to advert to the provisions contained in the amended Act, 2016, Section 30, 56, 57B and 58 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. -

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 be notified 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, as the 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”.

6. 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 seized/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 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.

7. 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 petitioner in the alleged occurrence. Moreover, there is no proof on record to show that either the petitioner was/is engaged in the trade of illicit liquor or the house in question was used by the petitioner to stack illicit liquor. Therefore, we find that the action of the State authorities in sealing the premises in question and initiating the 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 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 and circumstances of the present case, hence the seizure and the proceedings initiated for confiscation of the premises in question is without any authority of law. Accordingly, we set aside the confiscation proceedings initiated against the petitioner vide Confiscation Case No. 15 of 2025, by the learned Court of Additional District Magistrate, Nawada and direct for de-sealing and release of the premises in question in favor of the petitioner upon the State authorities being satisfied about the ownership of the petitioner with regard to the premises in question, within a period of two weeks on receipt/production of a copy of this order.

8. The writ petition stands allowed.

(Mohit Kumar Shah, J)

(Sunil Dutta Mishra, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.02.2026
Transmission Date	NA

