

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6902 of 2023

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Surendra Yadav, S/o Mishri Lal Yadav, R/o Village- Padma, Faudi Tol, P.S.-
Ladaniya, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department,
Government of Bihar, Old Secretariat, Patna
2. The District Magistrate, Madhubani.
3. The Superintendent of Police, Madhubani.
4. The District Supply Officer (Excise), Madhubani.
5. The S.H.O. Jaynagar, P.S.- Jaynagar, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bimal Kumar
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-05-2023

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

2. The writ petition arises under the provision of Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act'). The petitioner's vehicle i.e. motorcycle bearing Registration No. BR-32AF-5510 was detained on recovery of 243 litres of Nepali wine, in connection with Jaynagar P. S case No. 426 of 2022 dated 06.11.2022. for the offence under Sections 272, 273 and 414/34 of the IPC and Section 30(a) of



the Bihar Prohibition and Excise (Amendment) Act, 2022.

3. Petitioner is the *bona fide* owner of the vehicle in-question.

4. The learned counsel for the State submits that confiscation proceeding in Confiscation Case No. 39 of 2023 has been initiated and the same is pending before the Sub Divisional Magistrate, Jaynagar.

5. In such circumstances, the petitioner will have to appear before the Sub Divisional Magistrate, Jaynagar, who is *suo motu* impleaded as the additional 6th respondent herein. If the petitioner so desires, he can file an application under Rule 12A of the Bihar Prohibition and Excise Rules, 2021 upon which, the Authority would have to necessarily examine, whether the release would jeopardize public interest or not, as has been provided under the Rule. If he finds that, it would not, then the determination of the insured value of the vehicle shall be carried out and the penalty shall be directed to be paid. If the vehicle is found to be enabled for release and the penalty is paid, then the release shall be made as expeditiously as possible.

6. We make it very clear that we have not made any observation on merits and it is for the Sub Divisional Magistrate, Jaynagar, the 6th respondent, to consider the issue



exercising the discretion conferred judiciously.

7. The writ petition is disposed of with the
aforesaid observations/directions.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

aditya/sujit

AFR/NAFR	NAFR
CAV DATE	
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