

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8072 of 2023

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Sandeep Kumar, S/o Basudev Prasad Yadav, Resident of Village-Hariharpur,
P.O.-Kahuwai, P.S.-Gawan, District-Giridih (Jharkhand).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Divisional Commissioner, Excise Department, Patna Division, Patna.
3. The District Collector, Nawada.
4. The Superintendent of Police, Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 26-06-2023 The petitioner is concerned with his motorcycle bearing Regn. No. JH11Y3116 which was seized in connection with Kawakole P.S. Case no. 408 of 2022. The extract of the registration book of the said vehicle is produced as Annexure-2.

It is the petitioner's contention that the petitioner had no knowledge as to what was being carried in his motorcycle since the brother of the petitioner had taken away the motorcycle without his consent, who might have misused it. Later, he came to know that on 19.07.2022, on search being conducted, from his motorcycle bearing Reg. No. JH11Y3116, there was a recovery of 1 Ltr of *mahua* liquor, which recovery



was in presence of independent witnesses. The seizure list of the recovered articles was prepared and the vehicle was also seized pursuant to which Annexure-1 F.I.R. was registered.

It is the petitioner's case that the vehicle seized was that of the petitioner as revealed from the Engine number and Chassis number. It was not in the possession of the petitioner when the contraband articles were recovered from it. The F.I.R. registered as Annexure-1 clearly indicates the transportation of *mahua* liquor alleged, which was not with the connivance of the petitioner. The petitioner has also stated the engine number and chassis number of the vehicle, as evident from Annexure-2 to assert that the petitioner is the owner of the vehicle.

We notice that Rule-12A of the Bihar Prohibition And Excise Rules, 2021 has been amended giving discretion to the District Collector to release the vehicle in certain circumstances, especially when the vehicle owner is found to be not involved in the excise crime of transportation of liquor. The said provision is as per Rule-12A which stood amended as on 31.05.2023 in which further discretion is conferred on the District Collector to release the vehicle, if it does not infringe public interest, after imposing a penalty the minimum of which is 10% of the insured value.



In the above context, we are of the opinion that the petitioner could be directed to approach the District Collector with an application under Rule-12A which would be considered by the District Collector and release effected, if so ordered.

If the petitioner approaches the District Collector, Nawada/Respondent No. 3, within a period of two weeks, the District Collector shall immediately, within a period of three weeks therefrom, pass orders in the application after verifying the genuineness of the claim made by the petitioner.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Prakash/Avinash

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