

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9936 of 2023

Nikesh Kumar Singh @ Nikesh Singh @ Nikku Singh S/o Sushil Singh,
Resident of Village- Rajdham, Ward No. 2, P.S.- Maheshkunt, District-
Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Bihar, Patna.
2. The Collector-cum-District Magistrate, Khagaria.
3. The Superintendent of Police, Khagaria.
4. The Dy. S.P, Khagaria.
5. The Inspector (Excise)- cum- Officer-in-Charge, Excise P.S. District-
Khagaria.
6. Upendra Kumar, Assistant Sub-Inspector, Excise, P.S. Khagaria, District-
Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Singh

For the Respondent/s : Mr. Kumar Manish (Sc5)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 01-08-2023

In the instant petition, the petitioner has prayed for the
following relief(s):-



“(i) For issuance of any appropriate writ or writs, rule or direction especially in the nature of mandamus directing the respondent District Magistrate Khagaria to release the ten-wheeler truck bearing its registration no. BR10GA-4987, Engine No. B591803251H63457758, Chassis No. MAT448022F2H12039 Tata Motors Limited which has been seized in connection with Khagaria Excise P.S Case No. 184/2023 arising out of Excise Case No. 429C3/2023.

(ii) For issuance of any appropriate writ of writs, rule or direction especially in the nature of mandamus directing the respondent District Magistrate, Khagaria to release the seized vehicle of the petitioner in the light of certain provisions amendment made in 2022 in Bihar Prohibition and Excise Amendment Act, 2022 as the petitioner being owner of vehicle in question is ready and willing to deposit the alleged penalty accordance with law.

(iii) For issuance of any appropriate writ of writs, rule or direction as your Lordships may deem fit and proper to the fact and circumstances of the case as well as for which the petitioner may be found entitled there too.”

2. For issuance of writ of *Mandamus*, there must be



demand or application/representation before the competent authority and further duty vested with the public servant to decide the petitioner's grievance. First ingredient is not forthcoming to the extent that there is no demand or application pending consideration before the concerned authority insofar as release of the vehicle release of subject matter vehicle bearing Registration No. BR10GA-4987, which is involved in Khagaria Excise P.S. Case No. 184 of 2023, arising out of Excise P.S. Case No. 429 C/2023. For want of demand or application or representation before the competent authority, present writ petition is not maintainable. Accordingly the present petition stands disposed as premature.

3. Disposal of the present writ petition would not be hurdle for the petitioner to submit application/representation before the competent authority insofar as release of the subject matter of motor vehicle. If such representation or application is submitted, the concerned authority is hereby directed to take note of and decide the representation in the light of Rule 12A of the Bihar Prohibition and Excise, Act, 2018. The petitioner is at liberty to submit application/representation within a period of one week from today on receipt of such application by the competent authority. The concerned authority is hereby directed



to decide the same within a period of one week from date of submission of representation or application.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

Amrendra/ramesh

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