

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9995 of 2023**

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Prince Kumar Gupta Son of Vinod Kumar Gupta Resident of Village- Samdas Bagahi, Police Station- Kateya, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The District Magistrate-cum-Collector, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Officer-in-charge (S.H.O.), Kateya Police Station, Gopalganj.

... .. Respondent/s

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**Appearance :**

|                      |   |                                         |
|----------------------|---|-----------------------------------------|
| For the Petitioner/s | : | Mr. Lokesh Kumar Singh                  |
| For the Respondent/s | : | Mr. Vivek Prasad (GP-7)                 |
| For the State        | : | Ms. Manisha Singh, Advocate, AC to GP-7 |

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**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 an appropriate writ/order/direction commanding and directing the respondents to release the Motorcycle of the petitioner bearing Registration No. as BR-28R-4153 which has been seized by the police in connection with Kateya P.S. Case No. 112 of 2023 for the offences under section 30 (a) of the Bihar Prohibition and Excise Amendment Act, 2018.*

*(ii) For further issuance of writ/direction order as Your Lordships may kind deem fit and proper.”*



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 subject matter vehicle bearing Registration No. *BR-28R-4153*, which is involved in *Kateya P.S. Case No. 112 of 2023 for the offences under section 30 (a) of the Bihar Prohibition and Excise Amendment Act, 2018*. For want of demand or application or representation before the competent authority, present writ petition is not maintainable. Accordingly, the present petition stands disposed of 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)**

Skm/chandan/-

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