

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14177 of 2023

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Dhamendra Kumar Manjhi @ Dharmendra Kumar Manjhi son of Rajeshwar Manjhi, resident of Village- Shekhpura, P.O. Pakari Mahammad, Police Station- Amnour, District- Saran (Chapra). Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Saran at Chapra.
4. The Superintendent of Police, Saran at Chapra.
5. The Superintendent of Excise, Saran at Chapra.
6. The Inspector, Prohibition and Excise Department, Marhowrah Sub- Division, District- Saran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sachida Nand Rai, Advocate
For the Respondent/s : Ms. Shama Sinha, AC to Sc -5

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

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

2 17-10-2023 Heard learned counsels for the respective parties.

2. In the instant petition, petitioner has prayed for the
following reliefs:-

*“That, this application is being filed for
issuance of a writ in the nature of mandamus or any
other appropriate writ or writs directing the
respondents to release the "wooden Gumati" of the
petitioner, which has been illegally sealed on
26.06.2021 in connection with Saran Excise Case
No. 147 of 2021 registered for the offence. 2 under
section 30(a) of the Bihar Prohibition & Excise Act,*



2016 for the alleged recovery of 27.750 litres illicit wine.”

3. The aforementioned relief cannot be extended to the petitioner in the absence of any application or demand before the competent authority. In other words, writ of mandamus cannot be issued in the absence of ingredient of demand. Accordingly, the present writ petition is premature and it is disposed of as such.

4. Disposal of the present petition would not be a hurdle for the petitioner to make an appropriate application in prescribed form, if any, under Rule 12 (B) of the Bihar Prohibition and Excise (Amendment) Rules 2022. If such an application is submitted by the petitioner, the same shall be considered within a period of two weeks from the date of receipt of such application by the competent authority and proceed to pass an order and communicate the same at the earliest, if confiscating proceedings is not finalised as on today.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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