

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16600 of 2023

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Mantosh Sharma Son of Late Rampravesh Sharma, Resident of Village-
Kuchaikote, P.S.- Kuchaikote, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The District Magistrate Cum-Collector, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Police Inspector, Kuchaikote Police Station, District- Gopalganj.
5. The Excise Commissioner, Gopalganj.
6. The Investigating Officer of Kuchaikote P.S. Case No. 301/2023, District-
Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Dubey
For the Respondent/s	:	Mr. Vivek Prasad, G.P.7
		Ms. Supragya, A.C. to G.P.7
		Ms. Roona, A.C. to G.P.7
		Mr. Sanjay Kumar, A.C. to G.P.7
		Mrs. Manisha Singh, A.C. to G.P.7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL ORDER

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

2 30-11-2023 In the instant petition, petitioner has prayed for the
following relief(s):

*(i) A writ in the nature of mandamus or
any other appropriate writ order/orders,
direction/directions to commanding the respondent
to release, Hero Splendor Motorcycle bearing*



registration No. BR-28AA-9590, Chassis No. MBLHAW113NHK78622, Engine No. HA11EVNHK39021 in favour of the petitioner forthwith, which has been seized earlier in connection with Kuchaikote P.S. Case No.301/2023 registered for the offence under Sec.- 30(a) of Bihar Prohibition and Excise Amendment Act, 2018.

(ii) To any other relief/reliefs for with petitioner is found in titled to.

2. For issuance of writ of mandamus under Article 226 of the Constitution of India, there must be a demand on behalf of the petitioner and further statutory duty is vested with the concerned public authority. The petitioner has not made out the first ingredient in so far as the demand or application before the competent authority for the purpose of release of the seized motor vehicle i.e. Hero Splender Motorcycle bearing registration No. BR-28AA-9590. Therefore, the present petition stands disposed of as premature.

3. Disposal of the present petition would not be a hurdle to file an application under Rule 12-A of the Bihar Prohibition and Excise Rules, 2021 read with sub-Rule 2 of Rule 12-A of the Bihar Prohibition and Excise Rules, 2021 (Amendment Rules 2023). If such application submitted before



the competent authority, the competent authority is hereby directed to examine the petitioner's grievance in accordance with law within a period of two weeks from the date of receipt of the petitioner's application.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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