

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1947 of 2024

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Fekan Sahani son of Durga Sahani, resident of Village-Samhauri, P.S.-Pupri,
District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
2. The Collector/District Magistrate Sitamarhi, District-Sitamarhi.
3. The Excise Commissioner, Sitamarhi.
4. The Superintendent of Police, Sitamarhi.
5. The Superintendent of Excise, Sitamarhi.
6. The S.H.O. Pupri Police Station, District-Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Virendra Kumar, Advocate
For the Respondent/s : Mr. Ravish Chandra, AC to SC-6

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 07-02-2024

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

“(i) For issuance of an appropriate writ/writs/order/orders/ direction/directions including a writ preferably in the nature of Mandamus commanding and directing upon the respondent District Magistrate, Sitamarhi to release the motorcycle bearing registration



No. BR-30AG/7150 in favor of petitioner till disposal of criminal case hence forth taking into consideration that nothing incriminating article has been recovered from the motorcycle and motorcycle has not used in committing the offence under provision of Excise Act, 2016.

(ii) To any other relief/s to which the petitioner is entitled in the facts and circumstances of the case.”

2. In support of the above relief there is no demand before the competent authority in particularly under Rule of 12 A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12A in the year 2022 and 2023.

3. In the absence of demand before the competent authority the present writ petition for writ of mandamus is not maintainable or it is pre-mature. Accordingly, the present petition stands disposed of as pre-mature.

4. Disposal of the present petition would not be a hurdle for the petitioner to invoke remedy under Rule 12A of Bihar Prohibition and Excise Rules, 2021 including amended provisions in the year 2022 and 2023. If such application is submitted in the prescribed form before the competent authority, the competent authority shall pass speaking order within a period of two weeks from the date of receipt of application under Rule 12A of Bihar Prohibition and Excise Rules, 2021.



5. With the above observation, the present petition stands disposed of.

(P. B. Bajanthri, J)

by

(Ramesh Chand Malviya, J)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

