

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3878 of 2024

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Pritam Singh Son of Surjeet Singh, Resident of Village- Pasiana, P. S. -
Pasiana, District - Patiala, Punjab.

... .. Petitioner/s

Versus

1. The State Of Bihar Through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The District Magistrate/Collector, Gopalganj.
6. The Superintendent of Police, Gopalganj.
7. The Excise Superintendent of Police, District- Gopalganj.
8. The Officer-in-Charge of Phulwariya (Sripur O.P.) Police Station, District-
Gopalganj.
9. The Investigating Officer of Phulwariya (Sripur O.P.) P.S. Case No.
113/2023 dated-01.04.2023, Phulwariya (Sripur O.P.) Police Station,
District-Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Javed Aslam, Advocate

For the Respondent/s : Mr. Shailesh Kumar, AC to GP 5

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

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

Date : 29-02-2024

In the instant writ petition, petitioner has prayed for the
following relief/reliefs:

“(A) A writ in the nature of mandamus

or any other appropriate writ/writs, order/orders,



direction commanding the respondents for the following:

(i) To release the Truck bearing Registration No. PB11BR3099, Chassis No. MC2F8LRCOFA101274, Engine No. E413CDFA016986, in favour of the petitioner, which was seized in connection with Phulwariya (Sripur O.P.) P.S. Case No. 113/2023 dated – 01.04.2023 registered for the offence under Sections- 419, 420, 467, 468, 471/34 of the Indian Penal Code and 182(A)(4), 177, 179 MV Act and 30 (a), 41(i) of the Bihar Prohibition and Excise Act, 2016.

(ii) To any other relief/reliefs for which the petitioner found entitled to.”

2. For seeking writ of mandamus, there must be a demand before the competent authority. At the same time, duty is cast on the concerned public authority. In the absence of these materials, question of issuance of writ of mandamus for release the subject matter of motor vehicle is impermissible. Further, the petitioner has remedy of submission of application under Rule 12 A of the Bihar Prohibition and Excise Rules, 2021 (for short ‘Rules, 2021’) read with amended sub Rule 2 of Rule 12 A in the year 2022 and 2023.



3. The alleged offence is stated to have been committed on 01.04.2023 and as on today, the confiscation proceedings have not attained finality. The petitioner has submitted representation on 23.01.2023 and it is not in terms of prescribed format under Rule 12 A of Rules, 2021 read with amended sub Rule 2 of Rule 12 A in the year 2022 and 2023. Accordingly, present writ petition is premature and it stands disposed of as not maintainable.

4. Disposal of the present writ petition would not be a hurdle for the petitioner to invoke remedy under Rule 12 A of the Rules, 2021 read with amended provisions in the year 2022 and 2023. If such application is submitted before the competent authority in the prescribed form, the concerned authority is hereby directed to consider the petitioner’s grievance within a period of two weeks from the date of receipt of such application.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.03.2024
Transmission Date	NA

