

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5949 of 2024

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Pappu Kumar S/o Mahendra Yadav, resident of Village - Tharbitta, ward No. - 04, P.S.- Kishanpur, District - Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Prohibition and Registration Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Supaul.
4. The Superintendent of Police, Supaul.
5. The Excise Inspector, Excise, Police Station Kishanpur Thana, Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandeshwar Prasad, Advocate
For the Respondent/s : Mr. Prabhat Kumar (AC to GA-11)

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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 : 07-05-2024

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

“I. To issue an appropriate order/orders, Direction/Directions including a writ in the nature of Mandamus commanding and the directing the Respondent No-3(The District Magistrate Supaul) to release the petitioner is Spelindar Motor Cycle bearing Registration No. BR50X1887 which has been seized in Kishanpur P.S case No. 225 of 2023 u/s 30(A) Bihar Excise Prohibition and Excise Act 2018.

II. That the Kishanpur P.S case no. 225 of 2023 has been lodged against the petitioner alleging that 21 Liters of



illegal country made Chulaie wine was recovered from his the aforesaid Motor like bearing Registration No. BR50X1887.

III. That there is no criminal antecedent against the petitioner. He has been falsely implicated for no fault of his only due to village political the petitioner has been falsely implicated for no fault of his."

2. The alleged offence is stated to have been committed on 14.10.2023 and as on today the confiscation proceedings have not attained finality. That apart, the petitioner has not approached the concerned authority in seeking release of the subject matter of the motor vehicle bearing Registration No. -BR50X1887 (Spelindar Motor Cycle). The petitioner has remedy of submission of application under Rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12A in the year 2022 and 2023. Before invoking the aforementioned provisions and approaching the concerned authority, the petitioner has rushed to this Court. Be that as it may, even there is no representation. 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. The first ingredient of demand before the competent authority is not forthcoming.

3. Accordingly, the present writ petition is pre-



mature 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 12A of Bihar Prohibition and Excise Rules, 2021 including 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 under Rule 12A of Bihar Prohibition and Excise Rules, 2021 including amended provisions in the year 2022 and 2023.

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

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

amitkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.05.2024
Transmission Date	N/A

