

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4939 of 2024

Rajesh Bhagat S/o Mainekar Bhagat, R/o village Hata Tola, Sisai, P.S.-Bhore,
District- Gopalganj

... .. Petitioner/s

Versus

1. The State Of Bihar Through Secretary Excise and Prohibition Department
Gov. of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Gopalganj, Bihar
4. The Superintendent of Police, Gopalganj, Bihar
5. The Superintendent of Excise, Gopalganj, Bihar
6. The SHO, Phulwaria Police Station, Gopalganj, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kumar Harshvardhan
For the Respondent/s : Mr.Government Advocate (3)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

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

Date : 21-03-2024

In the instant petition, petitioner has prayed for the following

relief:-

*(i) For issuance of a writ of
Mandamus or any other appropriate
order/ orders, direction/ directions
directing the respondents to release the
vehicle of the petitioner which is a Black
coloured CD 110 DREAM DELUXE
motorcycle having Registration No.
BR28AB3402, Engine No.-
JC89EG1161887 and Chassis No.
ME4JC897KNG161669 which has been
seized by the State officials under
Phulwaria P.S. Case No. 350 of 2023
under Section 30 (a) of the Bihar
Prohibition and Excise Act.*



(ii) For any other order/ orders, relief/ reliefs for which the petitioner may be entitled in the eyes of law.

2. For issuance of writ of mandamus, there is no demand on behalf of the petitioner. He has statutory remedy under rule 12 -A of the Bihar Prohibition and Excise Rules, 2021 read with Amended Rules 2022 and 2023. Therefore, the present petition is premature.

3. At this stage, learned counsel for the petitioner on instructions submitted that District Magistrate, Gopalganj is stated to have issued circular dated 12.09.2022 in which one of the condition for release of the subject matter of vehicle is in a motorcycle illegal liquor carried more than five litres in such an event release of the subject matter vehicle is not permissible. Prima facie, such circular issued by the District Magistrate is without source of power. That apart Rule 12 -A of the Bihar Prohibition and Excise Rules, 2021 read with Amended Rules 2022 and 2023 is governing in respect of release of the subject matter of seized vehicle for the offences under the Excise Act. As long as Rule 12 -A of the Bihar Prohibition and Excise Rules, 2021 read with Amended Rules 2022 and 2023 is not amended properly, District Magistrate has no business to issue circulars in respect of release of seized motor vehicle alleged to have been involved for the offence under Excise Act. Therefore,



petitioner is hereby directed to furnish application under Rule 12 -A of the Bihar Prohibition and Excise Rules, 2021 read with Amended Rules 2022 and 2023 within a period of four weeks from today. On receipt of petitioner's application under Rule12 -A of the Bihar Prohibition and Excise Rules, 2021 read with Amended Rules 2022 and 2023 the District Magistrate, Gopalganj is hereby directed to decide petitioner's application within a period of two weeks and communicate the decision to the petitioner.

2. Accordingly, petition stands disposed of .

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.04.2024
Transmission Date	NA

