

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5211 of 2024

=====

Ankit Kumar S/o Ramesh Kumar, R/o Flat No- B-507, Sector 29 Rohini, 5th floor, Pehlad Pur Bangar, P.S.- Shahabad Dairy Dist.- North West Delhi-110042.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Excise and Prohibition Department Govt. of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Muzaffarpur, Bihar.
4. The Superintendent of Police, Muzaffarpur, Bihar.
5. The Superintendent of Excise, Muzaffarpur, Bihar.
6. The S.H.O., Saraiya Police Station, Muzaffarpur, Bihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Kumar Harshvardhan, Advocate
For the Respondent/s : Mr. Government Pleader 07

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

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

Date : 22-03-2024

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

“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 Star Dust coloured Creta Car having Registration No. DL12CN6282, Engine No. G4FGJW476961 and Chassis No.



MALC181CLJM418546 which has been seized by the State officials under Saraiya P.S. Case No. 35/2024 u/s 272, 273 of Indian Penal Code and 30 (a), 32 (ii), 32(iii), 36, 41(1) and 41(2) of the Bihar Prohibition & Excise Act;

And/or

*ii. For direction may be given for disposal of present case in light of the Hon'ble Patna High Court's decision in **Sunaina Vs. State of Bihar** (CWJC No. 7920/2023) and **Binit Kumar Son Vs. The State of Bihar** (CWJC No. 4040/2023) case.*

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

3. For issuance of writ of mandamus there must be demand before the competent authority followed by statutory duty vested in the public authority. Ingredient No. 1 relating to demand before the competent authority is not forthcoming in the present *lis*. Accordingly, present writ petition stands disposed of as premature.

4. Disposal of the present writ petition would not be a hurdle for the petitioner to approach the concerned authority under Rule 12 A of Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule (2) of Rule 12 A in the year 2022 and 2023. If such application is submitted in the prescribed format, the



concerned authority is hereby directed to proceed to decide the petitioner’s case within a period of two weeks from the date of receipt of such application under Rule 12 A.

5. The concerned authority is hereby directed to take note of whether petitioner’s grievance could be redressed in the light of Co-ordinate Bench decision in the case of *Sunaina vs. State of Bihar* (CWJC No. 7920 of 2023) and *Binit Kumar Son vs. The State of Bihar* (CWJC No. 4040 of 2023) or not?

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.03.2024
Transmission Date	NA

