

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9099 of 2024

Pyarelal Kajla S/o Mukanda Ram R/o House No. 268/1, Khuda Lahora, P.S.-
Sarangpur, District- Chandigarh.

... .. 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, 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. Sudhanshu Prakash, Advocate
For the Respondent/s : Mr. Additional Advocate General (04)

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

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

2 21-06-2024 In the instant petition, petitioner has prayed for the
following relief(s):-

“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 Polar White 2 coloured Creta Car having Registration No. CH01CJ4754, Engine No.- G4FLNV302771 and Chassis No MALPA812LNM327402 which has been seized by the State officials under Phulwaria P.S. Case No. 20/2024 u/s30(a) 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.”

2. The alleged offence is stated to have been committed on 17.01.2024 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. **CH01CJ4754** (Polar White 2 coloured Creta Car). 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)

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