

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9095 of 2024

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Ajay Kumar Bharti Son of Vinesh Prasad, Resident of Domath Tarya Sujan,
Kushinagar, P.O. and P.S.-Teriya Sujan, Uttar Pradesh.

... .. 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 Inspector General of Police, Bihar, Patna.
4. The District Magistrate -cum-Collector, Gopalganj.
5. The Senior Superintendent of Police, Gopalganj.
6. The S.H.O., Phulwariya Police Station, Gopalganj.
7. The Investigating Officer, Phulwariya P.S. Case No. 11 of 2024, Phulwariya
Police Station, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rishi Sinha, Adv
For the Respondent/s : Mr. Standing Counsel (9)

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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 : 21-06-2024

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

*“(i) To release the Scooty
bearing Reg No. UP57BP 5780, Chassis
No. MD626AK49P1N03343, Engine No.
BK4NP1802805 which has been seized in
Phulwariya P.S. Case No. 11 of 2024
dated 08.01.2024 instituted for offence
under sections 30(a) of the Bihar Excise
& Prohibition Act, 2022.*

*(ii) In alternate to direct the
Respondent Authorities to release the*



Scooty bearing Reg No. UP57BP 5780, Chassis No. MD626AK49PIN03343, Engine No. BK4NP1802805 till the completion of confiscation proceeding on deposit of security valuable to the car/penalty amount.

(iii) To hold that the actions of the Respondent Authorities are not tenable in the eye of law and violation of Article 300A of the Constitution of India.

(iv) To hold that the actions of the Respondent Authorities amount to double jeopardy.”

2. In support of such relief there is no demand before the competent authority in particularly under Rule of 12 A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12A in the year 2022 and 2023.

3. In the absence of demand before the competent authority the present writ petition for writ of mandamus is not maintainable or it is pre-mature. Accordingly, the present petition stands disposed of as pre-mature.

4. Disposal of the present 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 in the prescribed form before the competent authority, the competent



authority shall pass speaking order within a period of two weeks from the date of receipt of this order.

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

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Jyoti/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.06.2024
Transmission Date	N/A

