

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7716 of 2024

Narendra Khati S/o- Shyam Khati R/o- Baba Colony, B- Block, North- Delhi,
P.S.- Burari, Distt.- New Delhi.

... .. Petitioner/s

Versus

1. The State of Bihar Through, Secretary Department of Excise, Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The S.H.O. Kuchaikote P.S, District Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Deepankar Raj, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha (SC-19)
	:	Mr. Saurabh Kumar (AC to SC-19)

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. For directing and commanding the respondent authorities to release the Vehicle namely Maruti Baleno, bearing Registration No.-DL8CAC5905, Engine No.-K12MN4189928 and Chassis No.-MA-3EWB22SGJ234981 in favour of the petitioner which has been seized in connection with Kuchaikote P.S. Case No.114 of 2024 registered on 15.03.2024 under Section 30(a) of Bihar Prohibition and Excise Act Amendment Act- 2022.

ii. For directing and commanding the respondent authorities to release the Vehicle namely Maruti Baleno in the favour of the petitioner on the ground



that the petitioner is the owner of the said Vehicle and same is lying under open sky in the police station as nobody is there to take care of the motorcycle.

iii. For issuance of any other relief or relief(s) for which the petitioner is entitled for.”

2. The alleged offence is stated to have been committed on 15.03.2024 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. -DL8CAC5905 (Maruti Baleno). 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 premature 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.

6. The concerned authority shall consider, if the confiscation proceedings have not attained finality as on this day.

(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

