

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9143 of 2024

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Basant Pasi S/O Jag Narayan Pasi R/O Vill.- Purana Bhojpur, Kadim, P.S.-
Dumraon, Dist.- Buxar,

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Govt. of Bihar, Patna.
2. The Director General of Police, Govt. of Bihar, Patna.
3. The Excise Commissioner of Bihar, Patna.
4. The District Magistrate -Cum- Collector, Buxar.
5. The Superintendent of Police, Buxar.
6. The S.H.O. Simari, Police Station, Dist.-Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dr. Kamal Deo Sharma, Advocate
For the Respondent/s : Mr.Standing Counsel (6)

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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 : 28-06-2024

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

*(i) For release of the
vehicle in favour of the petitioner in which
the petitioner is the owner of the said seized
Motorcycle bearing Registration No.
BR44R-9766. The above motorcycle name
as Royal Enfield model name is Hunter 350
has been seized in connection with Simari
P.S. Case No. 353 of 2023 due to violation
of the Bihar Excise and Prohibition
(Amendment) Act 2018.*

(ii) For the issuance of



other appropriate writ/writs, direction/directions, order/orders as may be deem fit and proper.

2. On 21.06.2024, we have passed the following order:-

“S.H.O. Simari, Buxar P.S. Case No. 353/2023 Police Station is hereby directed to file his personal affidavit as to why the subject matter of vehicle has been seized in the absence of any recovery of liquor from them subject matter of vehicle. If no liquor is seized from the subject matter of vehicle question of seizure may not be warranted even on this issue he has to make it clear in his affidavit, such affidavit be filed on the next date of hearing.

2. Re-list this matter on 28.06.2024.”

3. Respondent No. 6 – Sanjay Kumar Gupta, S.H.O. Simari, Buxar has filed counter affidavit. In Para 9, it is stated as under :

“9. That it is true that there is no direct recovery of liquor from the vehicle in question of this petitioner i.e. BR 44 R 9766, however, this petitioner was arrested from the place of incident along with the motorcycle with others and he was driving one of the motorcycles carrying consignment of illicit liquor which was being transported on two Apache Motorcycles. There is total recovery of 69.12 litres in the interception and three accused persons including this petitioner were arrested from the place of incident.”



4. The action of the respondents is without authority of law and so also, their action is in high handedness for the reasons that in the absence of any recovery of liquor from the seized vehicle and vehicle seizure is illegal. Accordingly, the petitioner has made out a case.

5. The concerned respondents are hereby directed to release the subject matter of vehicle on Monday dated 01.07.2024.

6. Accordingly, the present C.W.J.C. No. 9143 of 2024 stands allowed with cost of Rs. 25,000/-. Cost shall be paid to the petitioner for having undergone mental agony and compelled him to approach this Court. Cost shall be paid on 01.07.2024 from respondent police department. The Superintendent of Police, Buxar is requested to supervise such matter properly, to avoid harassment to a citizen.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.06.2024.
Transmission Date	N.A.

