

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11036 of 2024**

=====

Bijadhar Ray S/O- Surendra Ray, Resident of Village- Santha, PS- Awatar  
Nagar, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. Additional Chief Secretary to the govt. of Bihar, Prohibition Excise and  
Registration Department, Patna.
3. Collector, Dsitric- Saran, Chapra.

... .. Respondent/s

=====

**Appearance :**

|                      |   |                                                           |
|----------------------|---|-----------------------------------------------------------|
| For the Petitioner/s | : | Mr. Ibrahim Kabir, Advocate<br>Ms. Shruti Sinha, Advocate |
| For the Respondent/s | : | Mr. P. K. Shahi, Advocate General                         |

=====

**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 09-09-2024**

The petitioner was aggrieved with the seizure of his vehicle and sought for release of the same. The petitioner also challenged Rule 12A of the Bihar Prohibition and Excise Rules, 2021, as amended in 2022 & 2023.

2. The allegation in the FIR registered is that there was information received that a truck with Registration Number UP 65 BT-9827 was transporting foreign liquor. The same was detained and on search, 268.570 liters of contraband was seized. A counter affidavit



has been filed by the 3<sup>rd</sup> respondent specifically indicating a show-cause notice at Annexure-3A issued in the proceedings for confiscation which has been concluded by Annexure-R3/B order dated 17.02.2024.

3. An amendment has been brought, to Rule 12A of the Rules of 2021. Therein, the penalty to be imposed is at a minimum of 10% of the insured value and not more than Rs.5 lakhs. It is also stipulated that in Rule 12, while imposing the penalty, the Collector or the authorized Officer should have due regard of the intoxicants recovered, involvement of the vehicle owner and the latest insurance value of the vehicle. We do not see the involvement of the vehicle owner having been considered in the above matter. If the Collector finds no involvement, then, necessarily there should be a release without a penalty. If there is an involvement, the gravity of the same ought to be considered while imposing the penalty, which should be less than Rs.5 lakhs and not below 10% of the insured value. The said ground has not been considered by the District Collector.

4. It is the submission of the learned



Government Advocate that despite notice having been issued, the petitioner failed to turn up and hence, no such consideration was made. Considering the fact that the petitioner now has raised a contention of no involvement, we are of the opinion that the matter should be considered afresh on the basis of the Rules amended as of 2023.

5. We set aside the order of the District Collector produced at Annexure-R3/B dated 17.02.2024 only to facilitate such a consideration. We make it clear that we have not made any observation regarding the involvement of the petitioner and has merely recorded his contention of no involvement. The District Collector shall conduct an inquiry and give an opportunity of hearing before a decision is taken. The petitioner shall approach the District Collector and remit 10% of the insured value of the vehicle, but not exceeding Rs.5 lakhs upon which the vehicle shall be released. The petitioner shall also give an undertaking that the vehicle will not be alienated and no third party rights would be created.

6. On the deposit of the amounts and the submission of the undertaking, as directed herein above, the



District Collector will release the vehicle and then permit the petitioner to file objections. A reasonable opportunity of hearing is also to be afforded and the matter shall be decided; against which; if the order is prejudicial the petitioner would have statutory remedies. The learned Counsel for the petitioner, in the nature of the orders passed, did not press the challenge against the provision but only prayed that the challenge may be left open and liberty reserved to the petitioner to challenge the provision once again, if the order is prejudicial to him.

7. We dispose of the writ petition with the above directions/observations with liberty reserved as sought.

**(K. Vinod Chandran, CJ)**

**( Partha Sarthy, J)**

sharun/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          |            |
| CAV DATE          |            |
| Uploading Date    | 11.09.2024 |
| Transmission Date |            |

