

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10232 of 2024

Naresh Kumar Mahato S/o Badri Mahto, R/o- At Kalyanpur, P.O- Madhopur,
P.S- Barauli, Dist.- Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Patna- Bihar
2. The District Magistrate, Gopalganj
3. The Superintendent of Excise Department, Gopalganj
4. The Officer in charge -Kateya, -PS, Gopalganj

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shubhesh Pandey, Advocate
For the Respondent/s : Mr.Government Advocate 3

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

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

2 08-07-2024 Heard learned counsels for the parties.

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

“ (a) For issuance of appropriate writ directing and commanding the respondent authorities to release the motorcycle of the Petitioner, Bearing Registration No.- BR-28-Y-5130 Chassis No.- MD2B68BXXLRH56304, Engine/Motor No.- DHXRLH90694, of BAJAJ PULSAR 125 DTS I motorcycle has been seized by the Respondent Police officials of the Kateya Police station of district Gopalganj, in a case bearing Kateya P.S. Case Number 115 of 2024 for the alleged offences u/s 30(a) of the Bihar Prohibition and Excise Act, 2022, in favour of the petitioner by handing it over to



him or his representative.

(b) For the issuance of any other relief/reliefs to which the petitioner may found entitled to in the facts and circumstances of the present facts and circumstances of the case in favor of the petitioner.”

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

4. In the absence of demand before the competent authority, the instant writ petition filed for direction under Article 226 for a writ of mandamus is not maintainable or it is premature. Accordingly, the instant writ petition stands disposed of as premature.

5. Disposal of the instant 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 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 such application.

6. If the confiscation proceedings of the subject



matter of vehicle has attained finality, in that event, petitioner is at liberty to prefer an appeal before the appropriate authority.

7. With the above observation, instant writ petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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