

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10272 of 2024

Uttim Prasad S/o- Parmanand Prasad R/o-Jalpurwa, P.S.-Barauli, Distt.
-Gopalganj.

... .. 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.Government Pleader (11)

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):-

“(i) For directing and commanding the respondent authorities to release the Vehicle namely Bajaj Pulser Motorcycle, bearing Registration No.-BR28W6695, Engine No.-DHYRKF70488 and Chassis No.-MD2A11CYBKRF42094 in favour of the petitioner which has been seized in connection with Barauli P.S. Case No. 300/2023 registered on 13.07.2023 under Section 30(a) of Bihar Prohibition and Excise Act, 2016.

(ii) For directing and commanding the respondent authorities to release the Vehicle namely Bajaj Pulser Motorcycle 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.”

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)

abhishekk/-

U			
---	--	--	--

