

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10613 of 2024

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Somari Mahto @ Samir Mahto S/o Vijan Mahto Resident of Village-Dorapur,
Siswania, P.S.-Uchkagaon, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Bihar Prohibition and Excise Department, Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Officer in Charge of Charge of Uchkagaon Police Station, District-Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Saurabh Kumar, Advocate
For the Respondent/s : Mr. Standing Counsel, SC 9

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

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

Date : 22-07-2024

Heard learned counsels for the respective parties.

2. In the instant writ petition, petitioner has prayed for
the following relief/reliefs:

*“a. For issuance of appropriate writ in
the nature of mandamus & certiorari for
commanding and directing the respondent
authorities to release the Hero Passion Pro
Motor-cycle of the petitioner bearing Reg. no.
BR28Q4126 and having Chesis no.
MBLHA10BSGHF44631, Engine no.
HA10EVGHF49709, seized by Uchkagaon P.S.*



Case no. 51/24 registered u/s 30(a) of Bihar Excise Amendment Act 2022, in favor of the petitioner 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 case in favour of the petitioner.”

3. In support of the aforementioned reliefs, 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 12-A 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)

(G. Anupama Chakravarthy, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2024
Transmission Date	NA

