

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14835 of 2024

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Jitendar Kumar Son of Sagar Mahto Resident of Village- Bhadausi, P.S.-
Baoghat, District- Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department,
Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Sheikhpura.
3. The Superintendent of Police, Sheikhpura.
4. The S.H.O. Baoghat Police Station, District- Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sheo Nandan Prasad, Adv

For the Respondent/s : Mr. Kameshwar Kumar GP-17

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

And

HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 04-10-2024

In the instant petition, petitioner has prayed

for the following relief(s):-

*1. That the present Civil Writ application
is being filed for release of vehicle, motorcycle
Apachi white colour Registration No. BR-01BT-
3735, Chesis No(MD634KE69D2F83751)
(MD634KE69D2F83751) Engine No.
OE6FD2219232, belong to the petitioner
which has been seized by Baoghat P.S. Case
No. 21/2023, dated 05.12.2023 for alleged*



offences registered Under Section 30 (a)/32 of Bihar Prohibition and Excise Act 2018. The aforesaid case is pending in the court of learned Special Excise Court, Sheikhpura, confiscation proceeding has not been initiate against the said Apachi white colour motorcycle.

2. Briefly stated the facts of the case is that there is alleged recovery of 500 ml. of country made liquor from the petitioner who was driving an Apachi white colour motorcycle bearing Registration No. BR-01BT-3735. On the basis of aforesaid fact, Baoghat P.S. Case No. 21 of 2023 dated 05.12.2023 was registered under Sections 30 (a), 32 of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Learned counsel for the petitioner submitted that petitioner is the owner of the seized motorcycle and he has no concern with the seized country made liquor. The seizure list has also been made without following the rule of search. From perusal of the F.I.R as well as seizure list, it is apparent that a meager quantity of 500



ml of illicit country made liquor was recovered from the pocket of the petitioner and not from the vehicle of the petitioner. For the alleged recovery of illicit liquor, the petitioner was arrested and he was sent to the jail custody. Now the petitioner has been granted bail in the aforesaid case.

4. Considering the small quantity of liquor, the concerned authority is hereby directed to collect fine of Rs.10,000/- and release the subject matter of vehicle within a period of one week from the date of receipt of this order.

5. We are conscious of the fact that alleged recovery is meager quantity and the aforesaid order has been passed while invoking extra ordinary jurisdiction under Article 226 of the Constitution of India for the reasons that unnecessarily petitioner shall not be subjected to various proceedings like Rule of 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12A in the year 2022 and



2023, Sections 58, 92 and 93 of the Bihar Prohibition and Excise Act, 2016, for a trivial issue of 500 ml. of liquor and such order is required to prevent the multiplicity of proceeding in the interest of justice.

6. Accordingly, the writ petition stands disposed of.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08/10/2024
Transmission Date	08/10/2024

