

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18117 of 2024

Sanjeev Kumar, Son of Ram Niwas, resident of village- Sonebarsa Babu Khajani, P.S. Khajani, District- Gorakhpur (Uttar Pradesh).

... .. Petitioner.

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Prohibition and Excise, Government of Bihar at Patna.
2. The District Magistrate, West Champaran at Bettiah.
3. The Superintendent of Police, Bagaha, District- West Champaran.
4. The Station House Officer, Pathakhauri Police Station, District- West Champaran.

... .. Respondents.

Appearance :

For the Petitioner : Ms. Purna Anand, Advocate.
For the State : Mr. Standing Counsel- 4.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAMESH CHAND

MALVIYA

ORAL JUDGMENT

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

Date : 29-11-2024

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

“For issuance of an appropriate writ, order or direction to the Respondents to release the vehicle of the petitioner (Four Wheeler) namely G. Vitara Smart Hybrid Sigma bearing Registration No.UP53ES 3844, Engine No.K15CN7224058, Chassis No.MBJTYKL1SPH174688 seized in connection with Patkhauri P.S. Case No.94 of 2024 dated 13.07.2024 registered under section 30(A) of the Bihar Prohibition & Excise Amendment Act, 2018 and further to pass any other order/orders for which the petitioner found entitled.

2. Briefly the facts of the case is that Four wheeler car



namely G. Vitara Smart Hybrid Sigma bearing Registration No.UP53ES 3844 of the petitioner was intercepted and three persons who were sitting in the said car were caught. On search of the car, two bottles, each containing 375 ml. of 8 PM Premium Black Whisky Batch No.597 (Total 750 Ml. Indian Made Foreign Liquor) were recovered. In this regard, Patkhauri P.S. Case No.94 of 2024 on 13.07.2024 for the offence under Section 30(A) of the Bihar Prohibition and Excise (Amendment) Act, 2018 was registered and, accordingly, search and seizure memo has been drawn.

3. Learned counsel for the petitioner submitted that the petitioner is the owner of the subject matter of the vehicle. Neither the petitioner was carrying the liquor nor he was driving the subject matter of the vehicle from which the alleged recovery is alleged to be made.

4. Perusal of the seizure list, it is evident that there is recovery of 750 ml. illicit Indian Made Foreign Liquor from the subject matter of the vehicle. Resultantly, subject matter of the vehicle has been seized.

5. Considering the recovery of small quantity of illicit liquor from the subject matter of the vehicle, the concerned authority is hereby directed to collect Rs.5000/-(Rupees Five



Thousand) from the petitioner and release the subject matter of vehicle in favour of the petitioner within a period of one week from the date of receipt of this order.

6. We are conscious of the fact that alleged recovery is meager quantity and the aforesaid order has been passed while invoking extraordinary jurisdiction under Article 226 of the Constitution 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 recovery of 750 ml. liquor from the subject matter of vehicle and such order is required to prevent multiplicity of proceedings and in the interest of justice.

7. Accordingly, the instant writ petition stands disposed of.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2024.
Transmission Date	NA

