

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15554 of 2024

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Arjun Sah S/O Raj Narayan Sah, R/O Vill.- Pursotimpur, P.S.-Itarhi, Dist.-
Buxar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise and Prohibition Govt. of Bihar, Patna.
2. The Director General of Police, Govt. of Bihar, Patna.
3. The Excise Commissioner of Bihar, Patna.
4. The District Magistrate -Cum- Collector, Buxar.
5. The Superintendent of Police, Buxar.
6. The Superintendent of Excise, Buxar.
7. The S.H.O. Excise, Police Station, Buxar, Dist.-Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dr. Kamal Deo Sharma, Adv
For the State	:	Mr. K.P. Gupta, G.P-10
		Mr. Virendra Kuar, AC to GP-10

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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 : 07-10-2024

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

*"1. That in this writ petition petitioner
has prayed for following reliefs:-*

*(i) For release of the vehicle in favour of
the petitioner in which the petitioner is the
owner of the said seized Hyundai Venue car
bearing Registration No. BR-44T-1505. The*



above named four wheeler car has been seized in connection with Buxar Excise P.S. Case No.242/2024 due to violation of the Bihar Excise and Prohibition (Amendment) Act 2018.

(ii) For the issuance of other appropriate writ/writs, direction/directions, order/orders as may be deem fit and proper.

2. Briefly stated the facts of the case is that there is alleged recovery of 1.5 litres beer from Hyundai Venue car bearing Registration No. BR-44T-1505, Chesis No. MALFB81BLRM580923 and Engine No. G4LARM871101. On the basis of aforesaid fact, Buxar Excise P.S. Case No. 242 of 2024 dated 29.06.2024 was registered under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Learned counsel for the petitioner submitted that petitioner is the owner of the seized vehicle and he has no concern with the seized illicit liquor. The arrested persons were not found in drunken condition as not any breath analyzer report was submitted by the respondent authorities to prove that they were in drunken condition.



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 1.5 litres of beer was recovered from the vehicle in question. For the alleged recovery of illicit beer, the petitioner was arrested along with other person. Now the petitioner has been released on bail in the aforesaid case. It is further submitted that till date, no notice of initiation of confiscation proceeding has been received by the petitioner.

4. Considering the small quantity of beer, the concerned authority is hereby directed to collect fine of Rs.5,000/-(Five Thousands) 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 1.5 litres 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
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