

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15342 of 2024

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Deepak Kumar Gupta S/o Rakesh Kumar Gupta, R/o Village-Haripurva
Bihta, P.S.-Bihta, District-Hardoi, Pin Code-241001 (U.P.).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Registration and Excise, Patna (Bihar).
2. The District Magistrate-cum-Collector, Rohtas at Sasaram.
3. The Superintendent of Police, Rohtas at Sasaram.
4. The Station House Officer, Dehri Town Police Station, Rohtas at Sasaram.
5. Amrendra Kumar Singh, A.S.I. (Group Captain) Indrapuri Police Check Post Dehri, Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gulam Mustafa, Adv
For the State : Mr. Alok Ranjan, AC to AAG-5

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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 : 05-10-2024

In the instant petition, petitioner has prayed

for the following relief(s):-

*"1. That the present application is being
filed for issuance of a writ in the nature of
Mandamus or any other appropriate
writ/rule/direction for quashing and setting
aside the order dated 03-09-2024 passed by
Ld. Exclusive Special Judge, Excise-I, Rohtas
at Sasaram in connection with Dehri*



(Indrapuri) P.S. Case No. 355 of 2024 dated 24-05-2024 registered for the offences punishable under section 30(a) of Bihar Prohibition and Excise Act 2016, whereby Ld. Special Court has rejected the petition filed on behalf of the petitioner to release the seized vehicle bearing Registration No. UP32NW0851, Chassis No.- MA1UJ2TZ2P2G32665, Engine No. TZPZG01952 in favour of the petitioner holding that the Jurisdiction of the Special Court is barred under section 60 of the Bihar Prohibition and Excise Act to release the vehicle seized under the Act and after setting aside the impugned order may kindly be released the said vehicle in favour of the owner or petitioner having valid documents.

2. That the following points of law, which arises for consideration of this Hon'ble Court are to the following effects:-

I. Whether the entire proceeding with regard to seizure of vehicle in question is in consonance with the provisions of the Act?

II. Whether the section 60 of the Act relating to confiscation is maintainable in view of fact and law while the story of the seized liquor by raiding team a meager quantity of



150 ml in a bottle is absolutely frivolous and concocted?

II. Whether the respondent has seized the vehicle and sent a seizure report for confiscation to the District Collector, Rohtas at Sasaram is appreciable in the eye of law or is there following due procedure ?”

2. Briefly stated the facts of the case is that there is alleged recovery of 150 ml. of Indian made foreign liquor from under foot mat of back of black colour 'Thar' vehicle bearing Registration No. UP-32NW-0851. On the basis of aforesaid fact, Dehri (Indrapuri) P.S. Case No. 355 of 2024 dated 24.05.2024 was registered under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2022.

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 150 ml of illicit liquor was recovered from the vehicle in question. For the alleged recovery of illicit liquor, the petitioner was arrested along with other persons and he was sent to the jail custody. 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 liquor, 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 150 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
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