

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17377 of 2023

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Kundan Kumar Son of Dhruw Kumar Pandey Resident of village- Saidpur Dighwara, Police Station - Dighwara, District - Saran. A/P R/O New Jakkanpur Laxmi Market Near Lal Kothi Apartment, Police Station - Jakkanpur, District - Patna.

... .. Petitioner.

Versus

1. The State of Bihar through Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate-Cum-Collector, Patna, District Patna.
3. The Superintendent of Police, Patna, District Patna.
4. A.S.I. Ajit Kumar, Malsalami P.S. Patna, District - Patna.
5. A.S.I. Nathuni Mahato Investigating Officer, Malsalami, P.S. Patna, District - Patna.
6. Officer-In-Charge of Jakkanpur P.S. Patna, District - Patna.
7. A.S.I. Hareram Thakur, I.O, Jakkanpur P.S., Patna, District - Patna.

... .. Respondents.

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Appearance :

For the Petitioner : Mr. Yashpal Yadav, Advocate.
For the State : Mr. Akash Chaturvedi, AC to SC-11.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 15-01-2024

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

“For issuance of an appropriate writ/writs
for release of Apache Motor Cycle bearing
Registration No.BR-01EG-3541, Engine
No.CE-4DK2913635, Chassis No.MD
634CE 43K2D14081 belonging to the



petitioner which was stolen on 26.02.2023 for which the petitioner lodged the F.I.R. on 26.02.2023 bearing Jakkanpur P.S. Case No.139/2023 dated 26.02.2023 registered under Section 379 of the Indian Penal Code.”

2. The Office has raised objection to the extent that C.W.J.C. or Cr.W.J.C. is maintainable.

3. Having regard to the fact that the subject matter of motorcycle was earlier stolen, in that regard an F.I.R. was registered on 26.02.2023, thereafter, the very same vehicle was involved in the Excise Offence, therefore, the writ petition is maintainable.

4. Be that as it may, the present writ petition is premature for the reasons that the petitioner has not exhausted statutory remedy available to him under sub Rule 2 of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended Rules 2022 and 2023. That apart, there is not even a representation to the concerned authority for the purpose of issuance of writ of mandamus.

5. Accordingly, the present writ petition stands disposed of as pre-mature.

6. Disposal of the present writ petition would not be



a hurdle for the petitioner to invoke statutory remedy available to him under sub Rule 2 of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended Rules 2022 and 2023. If such application is submitted in the prescribed form before the competent authority, the competent authority shall pass a detailed speaking order within a period of two weeks from the date of receipt of such application.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2024.
Transmission Date	NA

