

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17641 of 2024

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Rohit Kumar, Son of Shanker Prasad, resident of Village- Maula, P.O. -
Kamlagopalpur, P.S - Maner, District - Patna.

... .. Petitioner.

Versus

1. The State of Bihar through Additional Chief Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
2. The Excise Commissioner, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
3. The District Magistrate -cum- Collector, District - Bhojpur at Ara.
4. The District Transport Officer, District- Bhojpur at Ara.
5. The District Transport Officer, District- Patna.
6. The Additional District Magistrate, Excise, District Bhojpur at Ara.
7. The Superintendent of Police, District Bhojpur at Ara.
8. The S.H.O., Bhojpur Town Police Station, District Bhojpur at Ara.

... .. Respondents.

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Appearance :

For the Petitioner	:	Mr. Shashank Chandra, Advocate.
		Mr. Vatsal Verma, Advocate.
For the State	:	Mr. Y.P. Sinha, AAG-7.

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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 : 28-11-2024

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

(i) For issuance of a writ in the nature of writ of certiorari or any other appropriate writ, order, direction quashing the order dated 14.10.2024 passed in Miscellaneous (Excise) Case No. 495 of 2024, issued by the Collector,



Respondent No. 3 whereby the said respondent has directed the Petitioner to pay a fine of Rs. 5 lacs in terms of Sub-Rule (2) of Rule 12(A) of the Bihar Prohibition and Excise (Amendment) Rules, 2022 and also Rs. 15 thousand against the expenses incurred by the State in maintaining the said vehicle of the Petitioner, for releasing the said vehicle;

(ii) For issuance of writ of Mandamus commanding the respondent authorities, especially the Respondent No. 3 to forthwith release the Honda City Car bearing Registration No. BR 01 FM 2650 of the Petitioner, as the same has been seized and confiscated by the authorities without considering the fact that the alleged liquor recovered from the vehicle is of meager quantity i.e. total 800 ML and the same was not being transported for any commercial purpose and as such the fine imposed upon the Petitioner is completely disproportionate to the alleged offences committed by the Petitioner;

(iii) For grant of such other order/orders, relief/reliefs as your Lordships may deem fit and proper.

2. Petitioner while driving his Honda City Car bearing Registration No.BR01FM2650, he was intercepted and caught that he was carrying two bottles of beer, each containing 400 ml. of Kingfisher Strong Malt Beer, on 27.07.2024. In this regard,



F.I.R. has been filed and search and seizure memo has been drawn. Perusal of the same, it is evident that meagre 800 ml. Kingfisher Strong Malt Beer was found in the vehicle and it was seized along with vehicle.

3. The petitioner is stated to have filed an application for release of the vehicle under Rule 12A of the Bihar Prohibition and Excise Rules, 2021 read with amended sub Rule 2 of Rule 12A in the year 2022 and 2023. On the petitioner's application, Respondent no.3 passed an order on 14.10.2024 in Miscellaneous (Excise) Case No.495 of 2024 directing the petitioner to pay fine of Rs.5,00,000/-(Rupees Five Lacs) in terms of sub Rule 2 of Rule-12A of the Bihar Prohibition and Excise (Amendment) Rules, 2022 and also pay Rs.15000/- (Rupees Fifteen Thousand) against the expenses incurred by the State for maintaining such vehicle of the petitioner, for releasing the said vehicle.

4. No doubt, respondent no.3 has exercised his power under the Bihar Prohibition and Excise Rules, 2022, however, directing the petitioner to pay fine of Rs.5,00,000/-(Rupees Five Lacs) and Rs.15000/-(Rupees Fifteen Thousand) would be too harsh for recovery of meagre 800 ml. Kingfisher Strong Malt Beer.



5. In identical matter, Co-ordinate Bench has passed number of orders in respect of seizure of few ml./liters of liquor and imposition of fine exorbitant and not commensurate with offence would be too harsh. Co-ordinate Bench exercised extraordinary jurisdiction under Article 226 of the Constitution and reduced the penalty.

6. Accordingly, the present case is also identical to that of similar cases. The order of the respondent no.3 dated 14.10.2024 in Miscellaneous (Excise) Case No.495 of 2024 stands modified to the extent that the petitioner shall pay fine of Rs.10,000/-(Rupees Ten Thousand) only instead of Rs.5,00,000/-(Rupees Five Lacs) plus Rs.15000/-(Rupees Fifteen Thousand).

7. Further, the concerned authority is hereby directed to release the subject matter of vehicle in order to avoid multiple litigation like Confiscation Proceedings under Section 58, Appeal under Section 92 and Revision under Section 93 of the Bihar Prohibition and Excise Act, 2016 and further C.W.J.C. before this Court if he is aggrieved.

8. The aforementioned proceedings may take sufficient number of months or years for meagre recovery of 800 ml. Kingfisher Strong Malt Beer. In the interest of justice and



equity, we have modified the order of the respondent no.3 dated 14.10.2024 in Miscellaneous (Excise) Case No.495 of 2024 to the above extent.

9. The petitioner is hereby directed to pay a sum of Rs.10,000/-(Rupees Ten Thousand) for the alleged offence committed by him. If such amount is paid, the concerned authority is hereby directed to release the subject matter vehicle of the petitioner forthwith.

10. With the above observation(s), the instant writ petition stands allowed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2024.
Transmission Date	NA

