

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.236 of 2024

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Ritesh Kumar Bharti, Male aged about 25 years, Son of Vishnu Kant Bharti,
Resident of Kurji, (Behind Jaipuriya School), P.S.- Khagaul, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Prohibition and Excise Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Assistant Excise Commissioner, Bhojpur at Ara.
5. The Collector cum District Magistrate, Bhojpur at Ara.
6. The Sub-Divisional Officer, Bhojpur at Ara.
7. The Superintendent of Police, Bhojpur at Ara.
8. The Officer in- charge, Excise P.S., Bhojpur at Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate Ms. Rashmi Kumari, Advocate
For the Respondent/s	:	Mr. Subhash Chandra Mishra, SC 16 Mr. Madhukar Mishra, AC to SC 16

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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 : 08-02-2024

In the instant petition, petitioner has prayed for the following reliefs:-

“1. That this writ application is being filed for issuance of appropriate writ/writs, order/orders, direction/directions to the respondents authority in nature of certiorari for setting aside the order dated 24.04.2023 passed by learned Collector cum District Magistrate,



Bhojpur at Ara contained in Memo No. 843 dated 25.04.2023 in Misc. (Excise) Case No. 219 of 2023 and order dated 09.10.2023 passed by Excise Commissioner, Bihar in Excise Appeal Case No. 132 of 2023 whereby and whereunder it has been refused to release the seized Maruti Swift Car bearing Registration No. BR01EL-7795 having Chasis No. MBHCZC63SKH461615 and Engine No. K12MP1078092, year of Manufacture-2019, in favour of the petitioner, which has been seized in connection with Excise P.S. Case No. 201 of 2023 dated 06.03.2023 registered for the offences alleged under Section 30 (a) and 37 of Bihar Prohibition and Excise Act, 2018, the petitioner under the provision of the Excise Act filed Form-IV in terms of Section 57B (1) of the Act, before the Collector cum District Magistrate with a prayer to deposit the summon amount to release the vehicle but being prejudiced, violating the rule, arbitrarily unlawfully passed the impugned order despite of having nothing on the record of use of vehicle for similar offence, hence this application.

2. (i) To set aside the order dated 24.04.2023 passed by the learned Collector-cum-District Magistrate, Bhojpur at Ara, contained in Memo No. 843 dated 25.04.2023 in Misc (Excise) Case No. 219 of 2023 and Order dated 09.10.2023 passed by Appellate Authority-cum-Excise Commissioner, Bihar in Excise Appeal Case No. 132 of 2023 in connection with Excise P.S. Case No. 201 of 2023 dated 06.03.2023.

(ii) A direction may be given to the Respondents to release the seized Maruti Swift Car bearing Registration No. BR01EL-7795 having Chasis No. MBHCZC63SKH461615 and Engine No. K12MP1078092, year of Manufacture, 2019, in favour of the Appellant.



(iii) Any other relief/reliefs may be granted to the Appellant as per the law.”

2. Learned counsel for the petitioner submitted that Co-ordinate Bench of this Court allowed the petition in identical matter. He is relying on the decisions of **Shanti Devi Vs. The State of Bihar and Ors.** vide dated 30.01.2024 and **Binit Kumar Vs. The State of Bihar and Ors.** vide dated 30.01.2024 and the same is not being disputed by learned counsel for the respondent-State.

3. Accordingly, the present petition stands allowed in light of the aforementioned decisions of the Co-ordinate Bench. The impugned order dated 24.04.2023 stands set aside. The concerned authority is hereby directed to release the subject matter of Motor Vehicle in favour of the owner after due identification of the owner and vehicle records within a period of two weeks from today.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

Anand Kr.

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

