

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.568 of 2024

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Ramashankar @ Shankar Prasad Son of Fagu, Resident of Village- Gauri Jagdish Bind Toli, P.S.- Falka, District- Kushi Nagar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The Investigation Officer of Phulwaria P.S. Case No.- 99/23, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	None
For the Respondent/s	:	Mr. Subhash Prasad Sinha, G.A. 3 Mr. Indeshwari Prasad, A.C. to G.A. 3

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 11-01-2024 None appears for the petitioner.

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

“This is an application for issuance of writ in the nature of mandamus directing to the respondents to release the vehicle bearing Registration No. UP92P – 7217 Scorpio HAWK – LX78TR which belongs to the petitioner which was missing from the Ghoti of the petitioner and according to the First Information report



bearing Phulwaria P.S. Case No. 99 of 2023 dated 21.03.2023 under Section 30(a) of Bihar Prohibition and Excise Act, 2018 was lodged regarding missing the said vehicle.

For any other appropriate writ or writs commanding the respondent not to interfere with the said vehicle save and accept in accordance with law.”

3. The alleged offence is stated to have been committed on 21.03.2023 and as on today the confiscation proceedings have not attained finality. That apart, the petitioner has not approached the concerned authority in seeking release of the subject matter of the motor vehicle bearing Registration No. UP92P-7217 (Scorpio HAWK - LX78TR). The petitioner has remedy of submission of application 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. Before invoking the aforementioned provisions and approaching the concerned authority, the petitioner has rushed to this Court. Be that as it may, even there is no representation. For seeking writ of mandamus, there must be a demand before the competent authority. At the same time, duty is cast on the concerned public authority. The first ingredient of demand before the competent



authority is not forthcoming.

4. Accordingly, the present writ petition is pre-mature and it stands disposed of as not maintainable.

5. Disposal of the present writ petition would not be a hurdle for the petitioner to invoke remedy under Rule 12A of Bihar Prohibition and Excise Rules, 2021 including amended provisions in the year 2022 and 2023. If such application is submitted before the competent authority in the prescribed form, the concerned authority is hereby directed to consider the petitioner's grievance within a period of two weeks from the date of receipt of such application.

6. With the above observations, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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