

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1413 of 2025

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Jagdish Sudam Rathore @ Rathore Jagdish Sudam, Son of Sudam Rathore,
Resident of Rajdehre, Rohini, Jalgaon, Maharashtra, Pin-424108. At present
resident of village- Mordad Tanda Tal Nila Dhule, Maharashtra.

... .. Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Govt. of Bihar, Patna.
2. The District Magistrate-cum-Collector, Saran, Chapra.
3. The Additional District Magistrate, Saran, Chapra.
4. The Superintendent of Police, Saran, Chapra.
5. The Inspector, Manjhi Police Station, Saran.

... .. Respondents.

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Appearance :

For the Petitioner : Mr. Swami Parth Sarthy, Advocate.
For the State : Mr. Government Advocate-03.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 21-02-2025

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

“I. For issuance of a writ in the nature of
certiorari for quashing and setting aside order dated
23.11.2024 passed by Additional District
Magistrate, Saran, Chapra in Confiscation Case
No.456 of 2023 whereby he has inflicted a penalty
of 50% of IDV for release of petitioner’s Eicher
Pro Truck bearing Registration No.MH18BZ0410,
Chasis No.MC2CAMRCO-PA085687 and Engine
No.E426CDPA421538 sized in Manjhi Police
Station Case No.99 of 2023 for alleged offences



Under Sections 272/273/420/120B of I.P.C. and Section 30(a) of the Bihar Prohibition and Excise Act, 2022.

II. For issuance of a writ in the nature of mandamus for direction to the respondents for provisional release of the above mentioned truck in favour of the petitioner as petitioner is real owner of the said vehicle in view of substituted Sub-Rule (2) of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 which proposes for minimum 10% penalty of IDV and a maximum of Rs.5 Lakhs.

III. For grant of any other relief/reliefs for which the petitioner is legally entitled in the facts and circumstances of the case.”

2. Petitioner has a statutory remedy of filing appeal against the confiscation order under Section 92 of the Bihar Prohibition and Excise Act, 2016. Without exhausting such remedy, he has rushed to this Court. Therefore, the instant writ petition is pre-mature. Accordingly, instant writ petition stands disposed of.

3. Petitioner is permitted to submit a detailed memorandum of appeal before the Appellate Authority under Section 92 of the Bihar Prohibition and Excise Act, 2016 within a period of four weeks from today. If such appeal is presented, the Appellate Authority is requested to decide the petitioner's



appeal within a period of two months from the date of receipt of such appeal. In the meanwhile, the auction proceeding shall not be undertaken in respect of the subject matter of the vehicle till disposal of the appeal.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.02.2025.
Transmission Date	NA

