

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2143 of 2025

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Shri Kamal Kumar Jaluka S/o K.Kumar Jaluka C/o PU Forms PVT. Ltd. 96,
Muktaram Basu Steet, Kolkata (W.B.)

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner Excise Department, State of Bihar Patna.
2. The Director General of Police, Bihar Patna.
3. The Collector cum District Magistrate, Kaimur at Bhabua
4. Superintendent of Police, Kaimur at Bhabua
5. Superintendent of Excise Prohibition, Kaimur at Bhabua
6. Sub-divisional Magistrate, Bhabua (Kaimur)
7. Inspector of Excise Police Station, Kaimur at Bhabua

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Tribhuwan Narayan

For the Respondent/s : Mr.Government Pleader (27)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA)

Date : 24-03-2025

1. Heard the parties.

2. In the present writ application, the petitioner prays for
grant of the following reliefs:

*(i) For issuance of writ certiorari or any
appropriate writ to set aside the order dated 16.8.2023
passed by the Sub Divisional Officer, Bhabua (Kaimur) in*



Excise (Vehicle Confiscation) Case No. 196 of 2023 arising out of Excise Case No. 273 of 2023 whereby confiscated the vehicle Toyota Enova Car, bearing registration No. WB20U-6787, belonging to this writ petitioner and directed to auction sale within two months for the alleged recovery of 0.770 ml liquor.

(ii) To direct the respondent Authorities to released the aforesaid Toyota Innova Car, bearing registration No. WB20U-6787 in favor of petitioner.

(iii) To pass any further order/direction as deem fit and proper to the fact of this case.

3. Petitioner is stated to be the owner of Toyota Innova Car bearing Registration No. WB20U-6787. On 05.04.2023, Excise Case No.272/2023 was lodged under Section 30(A) of the Bihar Prohibition and Excise Amendment Act, against four named accused persons. It has been alleged therein that on 05.04.2023 in the course of checking of vehicle informant alongwith Excise team stopped a Toyota Innova Car bearing Registration No. WB20U-6787 which was found coming from Uttar Pradesh. It is further alleged that in the car four persons were found sitting who disclosed their names as (1) Dhananjay Sao, (2) Rajeev Chatterjee, (3) Sobasachi Chatterjee and (4) Bishru Pad Shasmal. In search, one bottle of Mc. Dowell liquor of 750 ml is said to have been



recovered from the back of the driver's seat, as such seizure list was prepared with regard to the liquor and vehicle of the petitioner. Petitioner contended that his vehicle Toyota Innova Car bearing Registration No. WB20U-6787 has been seized and is lying in police station in open sky. Petitioner further contended that he was not found sitting in the vehicle in question rather his relatives were coming from Uttar Pradesh and unfortunately one bottle of liquor of 750 ml was found in the back seat of driver of the car in question. Petitioner also submits that although Excise (Vehicle Confiscation) Case No. 196 of 2023 was initiated by the Sub-Divisional Magistrate, Bhabua (Kaimur) wherein notice was said to have been issued to the petitioner but the petitioner never received any notice and as such he did not appear before the Sub-Divisional Magistrate, Bhabua (Kaimur) in the confiscation case. Finally, on 16.08.2023, the Sub-Divisional Magistrate, Bhabua (Kaimur) is said to have passed ex-parte order in Excise (Vehicle Confiscation) Case No. 196 of 2023 and confiscated the aforesaid Toyota Innova Car belonging to the petitioner and directed to sell the confiscated vehicle through auction sale and deposit the money in treasury.

4. The petitioner submits that the order of confiscation and direction for auction sale passed by the Sub-Divisional



Magistrate, Bhabua (Kaimur) is bad in the eye of law and has been passed without proper application of mind as the Sub-Divisional Magistrate, Bhabua (Kaimur) ought to have considered that the owner of the vehicle i.e. the petitioner was not found sitting in the vehicle and rather his relatives were coming from Uttar Pradesh after attending a marriage party. The petitioner further submits that the vehicle of the petitioner is more precious/valuable than the small quantity of liquor recovered which is only 750 ml. The vehicle in question as per the petitioner is lying in the open sky and day to day it is deteriorating. Hence, prayer has been made for setting aside the order dated 16.08.2023 passed in Excise (Vehicle Confiscation) Case No. 196 of 2023 arising out of Excise Case No. 273 of 2023 and consequently for release of the vehicle in question i.e. Toyota Innova Car bearing Registration No. WB20U-6787 in favour of the petitioner.

5. In the instant case, it is crystal clear that there is a meager quantity of recovery of 750 ml of illicit liquor and therefore confiscation and auction sale of the vehicle in question which is far more valuable does not seem to be justified.

6. In light of the aforementioned discussion and considering the facts and circumstances of the case, we are of the opinion that confiscation and auction sale of vehicle in question



which is an expensive car for a meager quantity of 750 ml of illicit liquor recovered therein is not commensurate and reasonable. The petitioner is, therefore, directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand Only) as fine within two weeks from the date of this order and then the vehicle in question shall be released in favour of the petitioner.

7. Considering that the alleged recovery is of a meager quantity, therefore, it would not be proper and in the interest of justice to subject the petitioner various proceedings under the Excise Act like Sections 58, 92, 93 and Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (as amended in the year 2022 and 2023). Hence, in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, the above direction has been given to prevent the multiplicity of proceedings.

8. If the fine of Rs.10,000/- (Rupees Ten Thousand Only) is deposited by the petitioner within two weeks from the date of receipt of this order then all proceedings relating to order dated 16.08.2023 passed by Sub -Divisional Officer, Bhabua (Kaimur) in Excise (Vehicle Confiscation) Case No. 196 of 2023 arising out of Excise Case No. 273 of 2023 shall stand closed but if the fine is not deposited within the stipulated period then the



respondent authorities should continue with further proceedings
for auction sale of the vehicle in question.

9. With the above observations/directions, the present
writ petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

sanjeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.03.2025
Transmission Date	

