

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3349 of 2025

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Aditya Raj Son of Naresh Prasad Keshri, Resident of village- Suitha Parsa Bazar, P.S. Parsa Bazar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Old Secretariat, Patna.
2. The District Magistrate, Bhojpur at Ara.
3. The Superintendent of Police, Bhojpur at Ara.
4. The Sub-Divisional Officer, Bhojpur at Ara.
5. The S.H.O., Town Police Station, District - Bhojpur at Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhavesh Kumar Sah, Advocate.
For the Respondent/s : Mr. Government Advocate-10.

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

Date : 19-03-2025

Heard both the parties.

2. By filing the present writ petition, the petitioner

has prayed for the following relief(s):-

(i) for commanding the respondent authorities to release the Maruti Desire vehicle bearing registration No. BR-01-PQ0741, Chassis No. MBHCZFB3SPE434096, Engine No. K12NP7273058 in favour of the petitioner who is the owner of the vehicle in question and said vehicle was seized of pursuance to Town (Ara) P.S. Case No. 487 of 2024 dated 05.08.2024 registered for offences under Section 30 (a) of the Bihar Prohibition and



Excise Act. In this way vehicle in question has been parked in the premises of Town Police Station causing decay of vehicle on day to day as the same has been parked in open space without any use and in absence of any state hanger.

(ii) and for grant any other relief(s) as per the facts and circumstances of this case.

3. As per prosecution's case, there is alleged recovery of 500 ml of beer beneath the driver's seat from the vehicle of petitioner bearing Registration No. BR 01- PQ-0741, Chassis No. MBHCZFB3SPE434096, Engine No. K12NP7273058. On basis of the aforesaid facts, F.I.R. was registered on 05.08.2024 bearing Town (Ara) P.S. Case No. 487 of 2024 under Section 30 (a) of Bihar Prohibition and Excise Act, 2016 (as amended in 2022) and the vehicle in question was seized.

4. Learned counsel for the petitioner submitted that the alleged recovery is meager quantity of 500 ml of illicit liquor which was found beneath the driver seat and the petitioner has nothing to do with the recovered illicit liquor. The petitioner has falsely been implicated in this case. It is further submitted that the vehicle in question has not been used in transportation or for trading of illicit liquor. Moreover, it is further submitted that the vehicle in question has been parked in



open sky causing decay in the status of said vehicle and also causing depreciation in its value. Therefore, the vehicle in question is liable to be released.

5. Per contra, learned counsel appearing for the respondents submitted that the contentions raised by the petitioner are not tenable and the vehicle in question is liable to be confiscated due to recovery of the illicit liquor beneath the driver's seat in accordance with the provisions of the Bihar Prohibition and Excise Act. There is no illegality or impropriety in seizure of the vehicle in question and as such the petitioner does not deserve any relief so prayed.

6. In view of the above facts and circumstances and rival submission of the parties, the legal question arise for consideration by this Court is whether the vehicle in question is liable to be seized and confiscated under the Act.

7. It is pertinent to analyse the relevant statutory provisions of the Act. The bare reading of Section 56(b) of the Act clearly shows that any vehicle or conveyance can be seized and confiscated under the Act only when the vehicle has been used for carrying/transporting any intoxicant or liquor. Section 58 (3) of the Act provides that during confiscation proceeding, the owner of the vehicle has to be given opportunity of being



heard. Section 57B (1) also provides that any vehicle, or other conveyance used for committing any offence punishable under the Act and seized may be released upon payment of penalty. Rule 12A (2) of the Bihar Prohibition and Excise Rules, 2021 also provides that while imposing penalty under Section 57B of the Act, the authority concerned is required to give due regard to the quantity of intoxicant recovered and involvement of the vehicle owner.

8. The first and foremost thing, which emerges from the aforesaid discussion of the statutory provisions, is that no vehicle can be seized or confiscated without its 'use' in commission of any offence under the Act. Under Section 30 of the Act, transport of illicit liquor or intoxicant is an offence and in commission of such offence, a vehicle can be used. As such, use of the vehicle in transport of illicit liquor/intoxicant is *sine qua non* for its seizure and confiscation.

9. The Co-ordinate Bench of this Court in the case of **Binit Kumar v. The State of Bihar through the Principal Secretary and Others** reported in **2024 SCC OnLine Pat 850** has held that the word 'use' cannot be given liberal or expansive meaning and it has to be interpreted strictly as it has penal consequences. In view thereof, there is difference between use



of vehicle for purpose of transport of illicit liquor in contravention of the Act and the meager quantity of illicit liquor recovered from the possession of a person in such vehicle.

10. In the instant case, it is crystal clear that there is meager quantity of recovery of 500 ml of illicit liquor and confiscating the vehicle in question for same is not justified.

11. In light of the aforementioned discussion and considering the facts and circumstances of the case, we are of the opinion that confiscation of vehicle in question for meager quantity of 500ml of illicit liquor recovered therein is not reasonable. Therefore, the petitioner is directed to pay a sum of Rs.10,000/- (Ten Thousand Rupees Only) as fine within eight weeks from the date of this order and then the vehicle shall be released in favour of petitioner.

12. Considering that alleged recovery is meager quantity, the aforesaid order has been passed while invoking extra-ordinary jurisdiction under Article 226 of the Constitution of India for the reason that petitioner shall not be subjected to various proceedings under the Act like Sections 58, 92, and 93 and Rule 12A of the Bihar Prohibition and Excise Rules, 2021 as amended in year 2022 and 2023, for a trivial issue of recovery of 500 ml liquor and the above direction is required to



prevent the multiplicity of proceedings and in the interest of justice.

13. With above observations/direction, the present petition stands **disposed of**.

(Sunil Dutta Mishra, J)

(P. B. Bajanthri, J)

(P. B. Bajanthri, J)

Ritik/-

AFR/NAFR	NAFR
CAV DATE	06.03.2025
Uploading Date	19.03.2025
Transmission Date	NA

