

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4521 of 2025

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Adarsh Kumar S/o.- Birendra Kr Singh, Permanent R/o.- village -Dhanauta, Rukundipur, P.S.- Daraunda, District -Siwan. At Present- R/o.- Flat No. 17/B, 02nd Floor, Ganga Apartment, Vastu Vihar, Kola Kushma, Near Hanuman Mandir, Dhanbad, Nichitpur, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Excise Department, Government of Bihar, Patna.
3. The Excise Commissioner, Government of Bihar, Patna.
4. The Collector-cum- District Magistrate, Lakhisarai.
5. The Superintendent of Police, Lakhisarai.
6. The Inspector of Excise, Badahiya, Lakhisarai.
7. The Police Sub Inspector-cum- Officer In-Charge, Badahiya Police Station, Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vishal Ranjan
For the Respondent/s : Mr.Additional Advocate General (5)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

And

HONOURABLE MR. JUSTICE S. B. PD. SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 02-05-2025

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

*“i). That this is an application for issuance
of an appropriate writ, order or direction,
particularly in the in the nature of certiorari for
quashing the memo no. 352 dated 13.04.2024,
by which, the committee headed by the*

Additional Collector, Lakhisarai, whereby, they have fixed the amount of fine at Rs. 4,00,000/- (Four Lakhs) for release of vehicle of the petitioner only on the ground that there is difference in signature of the petitioner in the previous petition filed by the petitioner and the petition filed under Sub Rule (2) of Rule 12A of the Bihar Prohibition and Excise Rules, 2021, without considering the fact that the total cost of vehicle is at Rs.6,48,948/- and the fine of such an amount of Rs. Four Lakhs for release of his vehicle is arbitrary and unjustified and the said order appears to have been passed without application of mind and a minimum amount of 10% should have been fixed as a fine for release of the vehicle in question.

(ii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to release the Baleno vehicle of the petitioner bearing Registration No/Vehicle No. JH-10CL-0325, Chasis No. MBHHWB13SND137188, Engine No. K12NP7035114, which has arbitrarily been seized by the Badahiya Police Station, District -Lakhisarai in connection with Badahiya P.S. Case No. 31/2023 dated 10.02.2023 (District- Lakhisarai) registered for the offences under Section 30(a) of the Bihar

Excise and Prohibition Amendment Act, 2018.

5) For issuance of an appropriate writ/writs, order/s, direction/s to the respondents to enquire in this matter and take appropriate steps.

(iv) For any other relief/reliefs to which the petitioner is found entitled under the facts and circumstances of the present case.

2. Briefly stated, the facts of the case is that on 10.02.2023, the informant got secret information that some vehicles are coming with illicit liquor. Accordingly, checking of the vehicles were started. It is alleged that during that course from the vehicle of the petitioner bearing Registration No. JH-10CL-0325, 17.28 litres of country made liquor was seized and the petitioner was apprehended from the spot. On the basis of the aforesaid facts, Badahiya P.S. Case No. 31 of 2023 dated 10.02.2023 was instituted under Section 30(a) of the Bihar Prohibition & Excise Act, 2018.

3. It is submitted by learned counsel for the petitioner that petitioner is only the owner of the vehicle in question. The fault of the petitioner was that he gave lift to one Kumari Pratima Rani, without knowing this fact that

she was carrying illicit liquor. The petitioner was remained in custody in connection with the above mentioned case and he has been released on bail by a coordinate Bench of this Court vide order dated 10.05.2023 passed in Cr. Misc. No. 22776 of 2023. The petitioner had approached this Hon'ble Court vide C.W.J.C No. 4793 of 2024 for release of his vehicle, which was disposed of with a direction to approach the concerned authority under Rule 12 A of the Rules, 2021 read with amended sub Rule (2) of Rule 12 A in the year 2022 and 2023. The petitioner, thereafter filed a fresh application before the District Magistrate, Lakhisarai but inspite of such representation, no decision was taken. Now the respondent authority has passed the order vide memo no. 352 dated 13.04.2024 by which the earlier fine of Rs. 4,00,000/-(Four Lakhs) imposed by them has been sustained on the ground that there is difference in signature of the petitioner in the previous petition filed by him and the petition filed under Sub Rule (2) of Rule 12A of the Bihar Prohibition & Excise Rules, 2021. It is further submitted that the respondent authorities, while passing the order did not appreciate Rule 12A (2) of the Bihar

Prohibition & Excise Rules, 2021, in which the quantum of recovered liquor is one of the key factors which has to be considered while imposing the penalty over the seized vehicle under the Bihar Excise & Prohibition Amendment Act, 2018.

4. Learned counsel for the respondents submits that recovery of illicit liquor was made from the vehicle of the petitioner. The petitioner has alternative remedy to get the vehicle released after making payment of penalty in terms of Rule 12(A) of the Bihar Prohibition & Excise Rules, 2021.

5. From perusal of the record, it has transpired that alleged recovery of 17.28 litres of illicit country made liquor has been made from the vehicle registered in the name of the petitioner. The petitioner claims that recovery was not made from his conscious possession, rather recovery was made from one Kumari Pratima Rani who has taken lift from the petitioner. .

6. In that view of the matter, this Court finds that a penalty of Rs. 1,000,00/-(One Lakh) is appropriate in light of the facts and circumstances of the case.

7. Accordingly, the order dated 07.11.2023 and the order dated 13.04.2024 passed by learned Additional Collector, Lakhisarai are modified to the above extent.

8. We are conscious of the fact that alleged recovery is of meager quantity and the aforesaid order has been passed while invoking extra ordinary jurisdiction under Article 226 of the Constitution of India for the reasons that unnecessarily petitioner shall not be subjected to various proceedings like Rule of 12A of the Bihar Prohibition and Excise Rules, 2021 read Sections 58, 92 and 93 of the Bihar Prohibition and Excise Act, 2016, for a trivial issue relating to seizure of 17.28 litres of country made liquor and the aforesaid decision is warranted to prevent multiplicity of proceeding under Excise Act and Rules, in the interest of justice.

9. Considering the facts aforesaid, the petitioner is directed to deposit a penalty of Rs. 1,000,00/-(One Lakh) and the concerned authority is hereby directed to collect fine of Rs. 1,000,00/-(One Lakh) and release the vehicle of the petitioner within a period of one week from the date of receipt of this order.

10. Accordingly, the writ petition stands disposed
of.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	23/04/2025
Uploading Date	02/05/2025
Transmission Date	N/A