

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3691 of 2025

Arvind Kumar Son of Late Shivhar Singh Resident of Vilalge-
Nizamuddinpur, Police Station - Jehanabad, District - Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of prohibition and Excise Act, Govt. of Bihar, Patna.
2. The District Magistrate, Nawada.
3. The Superintendent of Police, Nawada.
4. The Sub-Divisional Officer, Rajauli, District-Nawada.
5. The Officer Incharge, Sirdala Police Station, District-Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Jha
For the Respondent/s : Mr.Standing Counsel (07)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

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

3 10-04-2025 In the instant petition, petitioner has prayed

for following reliefs:-

“(i) For issuance of appropriate writ
or writs, direction or direction, order or orders
commanding the Superintendent of Police,
Nawada, Respondent No. 3 to release the
three wheeler green colour Bajaj (CNG)
Tempo bearing Registration No. BR-01PM-
4295, Engine No. AZXWME39811, Chasis No.
MD2B47AX4MWE35735, seized by Nawada
District Police in Sirdala P.S. Case No. 362/24



dated 28.09.2024 registered under Section 30(a), 41 of the Bihar Prohibition and Excise Act confiscation of which recommended by police and presently it is pending before Sub-Divisional Officer, Rajauli, District-Nawada.”

2. On 24.03.2025, Co-ordinate Bench passed the following order :-

“(i) The Superintendent of Police, Nawada is hereby directed to file an affidavit whether the subject matter of vehicle was a theft vehicle arising out of F.I.R. dated 28.09.2024. Thereafter, the theft vehicle was involved for the offences under Excise Act, Sirdala P.S. Case no. 362 of 2024 dated 28.09.2024 has been registered, if it is true, why the petitioner is not entitled to have the benefit of release of the vehicle, for the reasons that petitioner is not involved for the offences under Excise Act, such affidavit be filed before the next date of hearing.

(ii) Re-list this matter on 03.04.2025.

(iii) If the vehicle has not been subjected to confiscation proceedings followed by auction, the concerned Authority is hereby directed not to proceed with the auction.”

3. Learned counsel for the respondent



vehemently contended that co-ordinate Bench in. CWJC No. 11678 of 2022 held that confiscation is required even though one of the vehicle is not involved for the offences. It is crystal clear that one of the vehicle is not involved for the offences under Excise Act on the other hand, he has registered case for theft of the vehicle prior to registration of F.I.R. for the offences under Excise Act. This itself shows that petitioner – owner is not involved. Resultantly, he is entitled for release of the vehicle. At the best, if the concerned respondent during the course of the investigation he/she intends to inspect the vehicle, in such event petitioner has to cooperate. For no reasons the petitioner – owner shall not be penalized insofar as confiscation of the vehicle. No doubt, confiscation of the vehicle is permissible if it is involved for the Excise offences at the same time when it is on record that one of the vehicle is not involved. In such an event, he is entitled to release of the vehicle to that effect, the cited decision on behalf of the respondent is distinguishable on facts.



4. Accordingly, the concerned authority is hereby directed to release the subject matter of vehicle in favour of the petitioner – owner within a period of one week from today.

5. Petition is allowed with cost of rupees 10,000/- (ten thousand rupees) for the reasons that the petitioner has been unnecessarily harassed during the intervening period from the date of seizure of the vehicle till its release and compelling him to approach this Court.

6. The petitioner shall cooperate in the event of any inspection of the subject vehicle by the official respondent.

7. With the above observation, the present CWJC No. 3691 of 2025 stands disposed of.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

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