

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6097 of 2025

Chandan Kumar Choudhary, son of Gaya Choudhary, Resident of Village-
Mirzapur, Ward No.08, (Tarabariarpur), P.S. Khodawandpur, District-
Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise, Bihar,
Patna.
2. The District Magistrate, Samastipur.
3. The Superintendent of Police, Samastipur.
4. The Presiding Officer, Excise-cum-Senior Supply Officer, Samastipur.
5. The S.H.O. Hathauri, P.S. and District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Binay Kumar
For the Respondent/s	:	Mr. Government Pleader (3)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
And
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 07-05-2025

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

*“i) For issuance of an appropriate writ,
order or direction for quashing the order
dated 09.11.2024 in Excise case no.17/2024-
25 passed by the presiding officer, Excise
Samastipur by which the petitioner has been*

directed to deposit 50% of the insurance value of the Motor vehicle in question for releasing his motor vehicle Maruti bearing Reg. no.BR 09 AE/2883.

(ii) For issuance of any other appropriate order or direction for releasing the petitioner's motor vehicle which has been seized and put under confiscation proceeding for which the petitioner is at all not liable for any criminal action of confiscation proceeding as the driver of his vehicle and his friend had put a small quantity of wine/liquor of 375 ml.

(iii) For issuance of an appropriate writ, order or direction for granting ad-interim stay restraining the respondents from confiscating and putting on an auction sale of the petitioner's vehicle during the pendency of this writ application.

(iv) For any other relief or reliefs for which petitioner may be found entitle under the law.

2. There is recovery of 375 ml of illicit liquor from the Maruti vehicle of the petitioner bearing Reg. No. BR 09 AE/2883. On the basis of the aforesaid facts, Hathauri P.S. Case No. 27 of 2024 dated 26.04.2024 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 innocent and he has falsely been implicated in this case. The petitioner was not apprehended from the spot as such nothing was recovered from his conscious possession and he came to be implicated based on the fact that he is owner of the seized vehicle. It is further submitted that petitioner was completely unaware that his driver Aadesh would misuse the vehicle in the manner as alleged who was also apprehended from the spot along with Raja, Ajeet and Amit. It is also submitted that on notice the petitioner appeared before the Presiding Officer, Excise-cum-Senior Deputy Collector, Samastipur and prayed for release of his vehicle but the Presiding Officer, vide order dated 09.11.2025 has directed the petitioner to deposit 50 percent of the insurance value of the motorcycle as penalty. 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 375 ml of illicit liquor has been made from the vehicle which was owned by the petitioner. The petitioner claims that recovery was not made from his conscious possession, rather recovery was made from the driver and other persons.

6. In that view of the matter, this Court finds that a penalty of Rs. 10,000/-(Ten Thousands) is appropriate in light of the facts and circumstances of the case.

7. Accordingly, the order dated 09.11.2024

passed by Presiding Officer, Excise, Samastipur, vide Excise Case No. 17 of 2024-25 is 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 an issue relating to seizure of 375 ml 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. 10,000/-(Ten Thousands) and the concerned authority is hereby directed to collect fine of Rs. 10,000/-(Ten Thousands) and release the vehicle of the petitioner, which was seized, 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	N/A
Uploading Date	15/05/2025
Transmission Date	N/A