

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6427 of 2025

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Shiromani Patel @ Shiromani Chhotelal Patel Son of Late Chhotelal Patel,
resident of Village - Raghunathpur, Tola-Santhali, Ward No. 12, Raghunatpur,
P.O. Mahua Bazar, P.S. Basanahi, District - Saharsa (Bihar)

... .. Petitioner/s

Versus

1. The Principal Secretary Prohibition Excise and Registration Department
(Excise), Government of Bihar, Patna
2. The Excise Commissioner, Bihar, Patna
3. The District Magistrate -cum- Collector, Saharsa
4. The Superintendent of Police, Saharsa
5. The Assistant Commissioner) Excise, Saharsa
6. The S.H.O., Basanahi Police Station, District Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Akash Anand
For the Respondent/s : Mr.Standing Counsel (4)

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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) To direct the respondent authorities to
provisionally release the vehicle i.e. Mahindra
Scorpio vide Registration No. BR-11PC -2445
vide Engine No. TDL4A82015, Chassis No.
MA1TA2TDKL2A17624, which having been*



seized in connection with Basanahi P.S. Case No. 245/2023, instituted under section 30(a) / 41, Bihar Excise and Prohibition (Amendment) Act 2022, on 11.12.2023 and the same being subject mater of confiscation (Excise) Case no.21/2024 which has been confiscated vide order dated 23.9.2024 passed by the Learned District Magistrate -cum-Collector, Saharsa (Respondent no.3).

(ii) To quash the order dated 23.9.2024 passed by the Collector, Saharsa (Respondent No.3) in confiscation (Excise) case No. 21/2024 by which the vehicle of the petitioner has been confiscated.

(iii) To quash the notice vide memo no.3046 dated 31.12.2024 passed by the Assistant Commissioner (Respondent no. 5) (Excise) Saharsa

(iv) To grant any other relief (s) for which the petitioner may be found entitled in the facts and circumstances of the case..

2. There is recovery of 2 litres and 250 ml country made liquor from the Scorpio vehicle of the petitioner bearing Registration No. BR-11PC 2445. The petitioner and Shankar Mistri were apprehended from the spot. On the



basis of the aforesaid facts, Basanahi P.S. Case No. 245 of 2023 dated 11.12.2023 was instituted under Section 30(a), 41 of the Bihar Prohibition & Excise Act, 2022.

3. It is submitted by learned counsel for the petitioner that petitioner is only the owner of the vehicle in question. The petitioner was apprehended and he was sent to jail but thereafter, he has been released on bail by learned Court below. The petitioner has received a notice issued from the Court of Collector, Saharsa in connection with Confiscation (Excise) No. 21 of 2024, regarding confiscation proceeding with regard to the vehicle of the petitioner. The petitioner appeared and submitted his written submissions but without considering the written submission the order of confiscation was passed on 23.09.2024 in a arbitrary and cryptic manner. The petitioner, thereafter approached before the Assistant Commissioner, Excise, Saharsa for release of his vehicle against the order of confiscation passed on 23.09.2024 in Confiscation (Excise) Case No. 21 of 2024. The Assistant Excise Commissioner, Saharsa has sent a notice to the petitioner on 31.12.2024 vide Memo No. 3046 to release the vehicle on paying 50



percent of the insurance cost as penalty within 15 days under sub-clause 12(K) of the Bihar Excise & Prohibition (Amendment) Act, 2022. 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 2.250 litres of illicit 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 police officials have *mala fide*ly conspired against the petitioner to make him



accused.

6. In that view of the matter, this Court finds that a penalty of Rs. 15,000/-(Fifteen Thousands) is appropriate in light of the facts and circumstances of the case, for which petitioner has no objection.

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 2.250 litres of illicit 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. 15,000/-(Fifteen Thousands) and the concerned authority is hereby directed to collect fine of Rs. 15,000/-(Fifteen Thousands) 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	N/A
Uploading Date	15/05/2025
Transmission Date	N/A

