

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6091 of 2025

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Ajay Kumar S/o Nandkishor Sah, R/o - Misrain Chak, P.S. - Gopalpur, Distt. - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar Through, Secretary Department of Excise, Bihar Patna.
2. The District Magistrate, Gopalganj.
3. The Superintendent of Police, Gopalganj.
4. The A.S.I Excise P.S., District Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Deepankar Raj

For the Respondent/s : Mr. Dhurendra Kumar, AC to GP 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 : 16-05-2025

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

“i) For directing and commanding the respondent authorities to release the motorcycle namely SUZUKI BURGMAN STREET UBNMM4, bearing Registration No.-BR01JB1223, Engine No.-AF218180939 and Chassis No.-MB8EA112K-R8382404 in favour of the petitioner which has been seized in connection with Excise P.S. Case No.891 of 2024 registered on 27.11.2024 under Section 30(a) of Bihar Prohibition and Excise



Amendment Act -2022.

ii. For directing and commanding the respondent authorities to release the motorcycle namely SUZUKI BURGMAN STREET UBNMM4 in the favour of the petitioner on the ground that the petitioner is the owner of the said Vehicle and same is lying under open sky in the police station as nobody is there to take care of the motorcycle.

(iv) For issuance of any other relief/reliefs for which the petitioner is entitled for.

2. Briefly stated, the facts of the case is that on 27.11.2024 at 9:45 P.M, on secret information, checking of the vehicle was conducted. A scooty was indicated to stop for checking but rider and pillion rider of the scooty tried to flee away who were apprehended by the police who disclosed their names as Ajay Kumar (driver) and Rahul Kumar. On search, 9 litres of Indian made foreign liquor was seized from the scooty and the accused persons were apprehended from the spot. On the basis of the aforesaid facts, Excise P.S. Case No. 891 of 2024 dated 27.11.2024 was instituted under Section 30(a) 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 has clean antecedent and the police officials made the petitioner accused in this case mala fide and seized his scooter by misusing their powers. The petitioner had approached this Hon'ble Court vide C.W.J.C No. 34 of 2025 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 authority concerned who has passed the order on 18.02.2025 imposing a fine of Rs. 80,000/-(Eighty Thousands Only) for release of the vehicle of the petitioner. 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 9 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. 20,000/-(Twenty Thousands) is appropriate in light of the facts and circumstances of the case, for which petitioner has no objection.

7. Accordingly, the order dated 18.02.2025 passed by learned Sub-Divisional Magistrate, Gopalganj 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 a trivial issue relating to seizure of 9 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. 20,000/-(Twenty Thousands) and the concerned authority is hereby directed to collect fine of Rs. 20,000/-(Twenty 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	07/05/2025
Uploading Date	16/05/2025
Transmission Date	N/A

