IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10126 of 2025

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Manjeet Kumar Yadav S/o Babu Ram Yadav R/o Rampur Paithan Pati, P.S.- Manjhagarh, District- Gopalganj, Bihar.

... ... Petitioner

Versus

1. The State of Bihar through Secretary Excise and Prohibition Department, Govt. of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Gopalganj, Bihar.
4. The Superintendent of Police, Gopalganj, Bihar.
5. The Sub- Divisional Officer, Gopalganj, Bihar.
6. The Superintendent of Excise, Gopalganj, Bihar.
7. The SHO, Gopalganj Police Station, Gopalganj, Bihar.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Masoom Raza, Advocate
For the Respondent/s	:	Mr. Ravi Ranjan, AC to SC-22

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 13-11-2025

Heard learned counsel for the petitioner and learned AC to SC-22 for the State.

2. The petitioner in this case is aggrieved by and dissatisfied with the order dated 18.03.2025 (hereinafter referred to as the 'impugned order') passed by the Commissioner (Excise) Bihar in Excise Appeal Case No. 25/ 2025 (Manjeet Kumar Yadav Versus Collector, Gopalganj and Others). By the impugned order, the Commissioner (Excise) has refused to interfere with the confiscation order dated 07.12.2024 passed by the Sub-Divisional

Officer, Gopalganj. By the impugned order of confiscation, the Mahindra Scorpio Vehicle bearing No. BR09U-7286 which belonged to the petitioner has been confiscated.

3. Learned counsel for the petitioner submits that by virtue of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (hereinafter referred to as the 'Rules of 2021') which has been inserted vide Amendment Rules 2022, Notification No. 2458 dated 05.04.2022, a provision has been brought into existence whereunder any vehicle, conveyance, vessel, animal etc. seized by any police or excise officer under the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Excise Act') may be ordered to be released. It is submitted that Sub-Rule (2) of Rule 12A of the Rules of 2021 provides for the imposition of penalty and the factors which are required to be taken into consideration while fixing the quantum of penalty. Sub-Rule (3) of Rule 12A, however, carves out an exception and it provides that notwithstanding above, if on a report by police officer or excise officer, the Collector or the officer authorized by him is satisfied that releasing the vehicle or conveyance shall not be in the public interest, he shall proceed ahead with the confiscation of the said vehicle or conveyance and its subsequent auction/disposal.

4. It is submitted that in the present case, the Collector, Gopalganj has invoked his power under Sub-Rule (3) of Rule 12A of the Rules of 2021 and has refused to release the vehicle citing public interest. The submission is that in the impugned order, the Collector, Gopalganj has not pointed out as to what would be the matter of public interest. The Rule nowhere provides for any exception in terms of the quantum of liquors recovered and any other reason for which a vehicle may not be released. The words ‘in public interest’ have not been clearly explained under the Rules of 2021 and it is capable of being misconstrued. Learned counsel further submits that even the Excise Officer failed to appreciate this aspect of the matter and dismissed the appeal.

5. The writ application has been contested by learned counsel for the State. It is submitted that the impugned order has been passed by the Sub-Divisional Magistrate who was authorised by the Collector, Gopalganj to deal with the confiscation matters, only after providing appropriate opportunity of hearing to the petitioner. It is pointed out that Rule 12A (3) confers power upon the Confiscating Authority to refuse to release a vehicle in public interest. Learned counsel for the State, however, does not dispute that what will be a matter of public interest has not been clearly laid down under the Rules of 2021. It is also not contested that under the Rules, there is no embargo on the release of a vehicle only for the reason that it was found involved in transportation of certain amount of liquors.

6. Having regard to the entire facts and circumstances of the case and the submissions which we have noticed hereinabove, we find that the order passed by the Sub-Divisional Officer, Gopalganj as also the Commissioner (Excise) are not sustainable. In the impugned order dated 07.12.2024, the Sub-Divisional Officer has referred Memo No. 4025/ Excise dated 07.11.2023 issued by the Collector, Gopalganj wherein a direction has been issued that in case a two-wheeler carrying more than five liters and four-wheeler carrying more than ten liters of liquor is seized then such vehicles shall not be released only on payment of penalty because such release would create hindrance in successful implementation of the provisions of the Prohibition Laws.

7. To this Court, it appears that the rejection of the prayer of the petitioner to release the vehicle in view of the Memo No. 4025/ Excise dated 07.11.2023 would not be justified. It is evident from the scheme of Rule 12A which has been inserted vide Amendment Rules 2022, Notification No. 2458 dated 05.04.2022 that this provision has been inserted only to make way to release of the vehicles, conveyance, vessel and animal etc. which have been seized by police or excise officer.

8. In past, it was noticed that huge number of vehicles, which were seized in connection with the Prohibition Laws were lying outside the police station occupying the road areas and those were being damaged due to the delay in disposal of confiscation cases and auction sale which were intermittently facing legal actions and the hindrances. In order to come out of such a situation, Rule 12A has been inserted. Sub-Rule (2) of Rule 12A, nowhere prescribes that the vehicle shall not be released if more than five liters or ten liters of liquors have been found in the vehicle. The Legislature have in their wisdom provided that quantum of penalty has to be fixed giving due regard to the quantity of intoxicant recovered, the involvement of the vehicle owner and the latest insured value of the vehicle. The general guideline issued by the Collector that the vehicle involving in transportation of more than five liters or ten liters shall not be released on payment of compensation seems to be against the scheme of Rule 12A of the Rules of 2021.

9. This Court specifically called upon the learned counsel for the State to show as to whether the Collector has any power under the Rules of 2021 to issue such order/directions in the matter of release of the vehicle. Learned counsel has submitted that no such provision is there empowering the Collector to provide any such guideline.

10. The words 'public interest' had fallen for consideration before the Hon'ble Supreme Court in the case of **Bihar Public Service Commission versus Saiyad Hussain Abbas**

Rizwi and Another reported in **(2012) 13 SCC 61** Referring to its judgment in the case of **State of Bihar V. Kameshwar Singh** reported in **AIR 1952 SC 252,** the Hon'ble Supreme Court observed in para '22' as under:-

> 22. The expression "public interest" has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. The expression "public interest" must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms of the Act. In its common parlance, the expression "public interest", like "public purpose", is not capable of any precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statute in which it occurs, the concept varying with time and state of society and its needs (*State of Bihar* v. *Kameshwar Singh)*[5]. It also means the general welfare of the public that warrants recognition and protection; something in which the public as a whole has a stake [*Black's Law Dictionary* (8th Edn.)]."

11. Since Rule 12A(3) talks of 'public interest' but it has not been clearly explained in the Rules, we would take a cue on this from the judgment of the Hon'ble Supreme Court in the case of **Saiyad Hussain Abbas Rizwi (supra) and Kameshwar Singh** (supra). To us, it appears that the legislatures in their wisdom have inserted Rule 12A with a conscious decision to allow release of the vehicles on payment of penalty. One of the factors to be taken into consideration for the purpose of arriving at the quantum of penalty is the quantum of liquors loaded on the

5. AIR 1952 SC 252

vehicle, therefore, only on the ground of quantity of liquor, the competent authority cannot reject an application for release of the vehicle.

12. In our considered opinion, it is to be decided by the competent authority in appropriate cases keeping in view several factors such as whether the vehicle has been caught in commission of offence repeatedly or that the owner of the vehicle could not be verified, there may be a case where the liquors are found spurious and the owner of the vehicle may be found involved in multiple cases of like nature under the liquor laws or any other consideration of like nature. In such cases, the competent authority may form an opinion taking note of the 'public interest'.

13. If the competent authority starts rejecting an application for release of the vehicle even if it is found involved in the transportation of liquor for the first time, only by taking note of the quantum of liquor, it would act as a stumbling block in implementation of the scheme of Rule 12A, that would, in fact, frustrate the mandate of law. The word 'public interest' as occurring under sub-rule (3) of Rule 12A cannot be given a rigid meaning, it has to be construed in the context of the scheme of the statute and it must take its colour from the statute in which it occurs.

14. Taking note of the aforesaid legal position and the submissions, we find that the impugned orders are bad in law. We set aside the impugned order of confiscation passed by the Sub-Divisional Magistrate, Gopalganj as well as the Appellate Order passed by the Commissioner (Excise).

15. The matter is remitted to the Sub-Divisional Magistrate, Gopalganj for afresh consideration of the matter keeping in view the scheme of Rule 12A of the Rules of 2021. An appropriate order shall be passed within a period of one month from the date of receipt/production of a copy of this order.

16. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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CAV DATE	
Uploading Date	17.11.2025
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