

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1189 of 2024

Arising Out of PS. Case No.-415 Year-2024 Thana- Excise P.S. District- Gopalganj

Rakesh Kumar Singh Son of Dineshwar Singh Resident of Mohalla- Bara
Pather, Ward No.14, P.S.- Samastipur Town Police, District- Samastipur
... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department,
Government of Bihar, Patna
2. The Principal Secretary, Excise Department, Government of Bihar Patna
3. The Directory General of Police, Bihar Patna
4. The Director General of Police, Bihar Patna
5. The Superintendent of Police, Gopalganj Bihar
6. The Deputy Superintendent of Police, Gopalganj Bihar
7. The Sub Inspector, Excise, Police Station, Dist.- Gopalganj Bihar
... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Vanshika Nupur, Advocate Mr. Amarnath Kumar, Advocate
For the Respondent/s	:	Mr. Ajay, G.A.5 Mr. Akash Raj, AC to GA-5

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 13-02-2025 This is an writ petition under Article 226 of the

Constitution of India filed by the owner of one seized Innova
Crysta bearing Registration No.BR01PJ-1117 which was seized
in connection with Excise Police Station Case No.415 of 2024
dated 04.05.2024 for the offence punishable under Section 30(a)
and 32 of Bihar Prohibition and Excise (Amendment) Act, 2018.

2. It is the case of the petitioner that on 03.05.2024 he
allowed his driver to take away the said vehicle for using the
same in the marriage ceremony of his sister. On 04.05.2024 the
vehicle was intercepted by the concerned authority under the



Excise Department and prohibited foreign liquors were found stored inside the vehicle. The foreign liquors and vehicle were seized.

3. It is submitted on behalf of the petitioner that a notice for initiation of confiscation proceeding by the jurisdictional Collector has been received by the petitioner. The petitioner has approached this Court for mandamus commanding the respondents, especially Collector, Gopalganj to release the vehicle.

4. Rule 12(A) of Bihar Prohibition and Excise Rules, 2021 states as follows:-

“12A. Release of Vehicles, Conveyance etc. on Payment of Penalty.-(1) If any vehicles, conveyance, vessel, animal etc. has been seized by any police or excise officer under the Act, then in terms of Section 578 (1) of the Act, the Collector or an officer authorized by him upon receipt of an application in **Form IV** by the owner of the said conveyance or vehicle etc., may release the said conveyance or vehicle upon payment of such penalty as may be ordered by the Collector or the officer authorized by him.

Provided, where it is not possible to ascertain the owner of the vehicle or the owner is not coming to claim the vehicle, the Collector or the officer authorized by him, after waiting for 15 days from the date of seizure, shall proceed to confiscate



and auction the vehicle as per the provisions of the Act.

(2) The penalty shall be 50% of the latest insured value of vehicle/conveyance. The insured value is the value of the vehicle as assessed by the insurance company. Where, the insured value is not available or the Collector or the officer authorized by him has reason to believe that the vehicle is undervalued, he shall get the valuation done by the District Transport Officer and 50% of that value shall be the amount of penalty.

In any case, the Collector shall not wait beyond 15 days from the date of seizure and if during this period, the accused/owner does not pay up the penalty, he shall proceed with the confiscation/auction.

(3) 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) Where the conveyance is such that its valuation/insurance is not possible, the Collector or the officer authorized by him shall impose such fine as he deems fit. While imposing such fine, the Collector or the officer authorized by him shall have due regard to the economic status of the individual, nature of his involvement in the crime and the quantum of intoxicant recovered.



(5) Such penalty shall be, regardless of the outcome of the trial if any, before the Special Court, non-refundable.

(6) The owner of the vehicle/conveyance shall, after the release of the vehicle/conveyance, produce the vehicle/conveyance as and when required by the authorities.”

5. Plain reading of Rule-12(A) suggest that the Collector or an officer authorized by him on receipt of the application by the owner of the vehicle may release the said vehicle after imposing penalty which shall not be less then 50% of the latest ensured value of the vehicle.

6. In view of such provision, the instant writ petition is disposed of directing the Collector, Gopalganj to release the vehicle after imposing penalty as per Rule-12(A)(2) of Bihar Prohibition and Excise Rules, 2021. It is further directed that such order shall be passed by the Collector, Gopalganj within 21 days from the date of receipt of the copy of this order.

7. Accordingly, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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