

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13902 of 2025

Kiran Kumari Wife of Ranjeet Kumar, Resident of Village/Mohalla- Shivpuri
Damuchak Lane No.1 P.S.- Kazi Mohammadpur, District- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Collector, Sitamarhi.
5. The S.D.M, Pupri, Sitamarhi.
6. The S.S.P., Muzaffarpur.
7. The S.S.P., Sitamarhi.
8. The SHO, Mithanpura, P.S- Muzaffarpur.
9. The SHO, Bajpatti, P.S- Sitamarhi.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Sanjay Parasmani, Advocate
For the Respondents	:	Mr. AC to Standing Counsel 28

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 08-12-2025

Heard learned counsel for the petitioner and learned AC
to SC-28 for the State of Bihar.

2. While hearing the writ application on 20.11.2025, this
Court passed the following order:-

“Heard learned counsel for the petitioner and
learned SC-28 for the State.

2. The petitioner in this case is aggrieved by
and dissatisfied with the order dated



27.09.2023 passed by the Sub-Divisional Magistrate, Pupri, Sitamarhi in Excise Confiscation Case No. 158 of 2023 by which the vehicle in question is said to have been confiscated.

3. Learned counsel for the petitioner submits that till date, the vehicle has not been auction sold and, in fact, he was seeking release of the vehicle in question on legal advice before the concerned court of learned Magistrate at Muzaffarpur who is dealing with Mithanpura P.S. Case No. 276 of 2023. The said case was lodged by the petitioner alleging theft of his motorcycle parked near Big Bazar at Muzaffarpur. The said motorcycle was later on recovered with the illicit liquor from the district of Sitamarhi.

4. It is submitted that the petitioner had appeared before the Confiscating Authority and proposed to pay the penalty but she was told that an order of confiscation had already been passed. It is submitted that the petitioner had also filed a show cause before the S.D.M., Pupri but ignoring the show cause filed by the petitioner, the impugned order has been passed in haste and a wrong averment has been made in the impugned order that despite notice, the petitioner did not file any objection or show cause.

5. Learned SC-28 for the State submits that the petitioner has moved this Court against the impugned order after a period of two years, therefore, it is not known whether the vehicle in question is still lying in the police station or it has already been auction sold.



6. In the aforesaid view of the matter, we direct the Sub-Divisional Magistrate, Pupri to file a counter affidavit within two weeks from today stating the correct facts and the present status of the vehicle in question. If the vehicle in question has not been auction sold, the S.D.M., Pupri and the District Magistrate, Sitamarhi shall ensure that the vehicle is not auction sold during pendency of the writ application.

7. List this case on 08th December, 2025 under the same heading maintaining its position.”

3. Pursuant to the aforesaid order, a counter affidavit has been filed on behalf of the Respondent Nos. 4 and 5. In paragraph ‘6’ of the counter affidavit, it has been made clear that the vehicle has yet not been auctioned. Further, the deponent has undertaken that the same shall not be auctioned during pendency of the present writ petition.

4. As regards the query of this Court as contained in paragraph ‘4’ of the order dated 20.11.2025, nothing has been stated in the counter affidavit.

5. We, therefore, understand that the submission made on behalf of the petitioner that the petitioner had proposed to pay the penalty but she was told that an order of confiscation had already been passed and further submission that the petitioner had



filed a show cause before the Sub-Divisional Magistrate, Pupri are correct submissions.

6. We have also perused the ordersheets of the court of Sub-Divisional Magistrate, Pupri, Sitamarhi as contained in Annexure 'P-5' to the writ application. In the order dated 18.08.2023, it is recorded that the vehicle owner is present and has submitted an application in respect of the confiscated Hero Glamour Motorcycle but no application in Form IV has been filed. It is evident from perusal of the records that prior to filing of the application by the owner, the Sub-Divisional Magistrate, Pupri had issued show cause notice to the owner.

7. The order of confiscation has been passed on 27.09.2023 in the light of the proposal received in this regard from the Superintendent of Police, Sitamarhi. It has been wrongly recorded in the order dated 27.09.2023 that no objection or show cause had been submitted by the owner of the vehicle. In our considered opinion, the application, whatsoever was filed on behalf of the vehicle owner on 18.08.2023, was required to be considered by the Sub-Divisional Magistrate, Pupri while passing the order of confiscation. Non-consideration of the application of the vehicle owner has rendered the order of confiscation suffering



from jurisdictional error. It also suffers from violation of principles of natural justice, hence, it is liable to be held bad in law.

8. We set aside the impugned order dated 27.09.2023 (Annexure ‘P-6’) by which the vehicle in question has been confiscated.

9. The petitioner is given liberty to file an application in the prescribed Form IV for release of the vehicle in question before the Sub-Divisional Magistrate, Pupri within a period of 30 days from today. If such an application is filed, the Sub-Divisional Magistrate, Pupri shall consider the same and pass an appropriate order in terms of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (as amended up to date) within one month from the date of filing of the application.

10. In the meantime, the vehicle in question shall not be auctioned.

11. This writ application is allowed.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	09.12.2025
Transmission Date	

