

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15067 of 2025

Ashish Yadav, S/o- Amarnath Yadav, Permanent Address- 159 /R215 Chitragupat Nagar Colony Ramerpur Pahariyan Varansi, (U.P) at present Address- N.H. 56 Suarpur, P.S. Karanda, P.O. Chodhakupur Tehsil, District Gajipur (U.P).

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Excise, Registration and Prohibition, Govt. of Bihar.
2. The Excise Commissioner of Patna.
3. The District Magistrate-Cum-Collector, Kaimur at Bhabua.
4. The Superintendent of Police, Kaimur at Bhabua.
5. The S.H.O. Excise (Bhabua), Kaimur at Bhabua.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Uday Pratap Singh, Advocate
For the State	:	Mr. Majid Mahboob Khan, AC to AAG-12

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

Date : 27-11-2025

Heard learned counsel for the petitioner and learned AC to AAG-12 for the State of Bihar.

2. The petitioner in this case is seeking to challenge the order dated 19.06.2025 passed in Excise Revision Case No. 7 of 2025 by the Secretary, (Prohibition and Excise), Bihar, Patna whereby and whereunder, he has affirmed the orders passed by the Appellate Authority in Excise Appeal Case No. 121 of 2024 and the Confiscating Authority in Confiscation Case No. 565 of 2024. Further, prayer has been made to release the vehicle (Tata Safari)



bearing Registration No. UP 61AP 8080 which has been confiscated in the said case.

3. The vehicle in question has been confiscated and the prayer of petitioner for release of the vehicle has been rejected by the Confiscating Authority on the ground that it would not be in public interest to release the vehicle in terms of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 which was inserted vide Amendment Rules, 2022 (hereinafter referred to as the 'Rules of 2021'). Altogether 240 liters of liquor is said to have been seized from the vehicle.

4. Learned counsel for the petitioner submits that the orders impugned in the present writ application are in the teeth of the scheme of the Rules of 2021 which was amended in the year 2022 and the provision in form of Rule 12A was inserted in the Rules to provide for release of the vehicle involved in transportation in liquor on payment of penalty.

5. It is submitted that Sub-Rule (3) of Rule 12A provides an exception whereunder the Competent Authority may refuse to release the vehicle on the ground that it would not be in public interest to release the vehicle. In the case of **Manjeet Kumar Yadav Vs. The State of Bihar and Others (CWJC No. 10126 of 2025)**, this Court had occasion to consider the provision of Sub-



Rule (3) of Rule 12A of the Rules of 2021 (as amended). Paragraphs '12' and '13' of the judgment of this Court have been brought to the notice of this Court and it is pleaded that in similar circumstances, this Court has quashed the order of confiscation and remitted the matter to the Confiscating Authority for a fresh consideration.

6. Learned AC to AAG-12 submits that Sub-Rule (3) of Rule 12A empowers the Confiscating Authority to refuse the release of the vehicle on the ground of public interest. According to him, altogether 240 liters of liquors were found under transportation in the vehicle and the brother of the petitioner was arrested, therefore, the Confiscating Authority has taken a view that the involvement of the petitioner cannot be ruled out.

7. We have heard learned counsel for the petitioner and learned AC to AAG-12 for the State. A perusal of the order of confiscation (Annexure 'P/2') would show that learned Sub-Divisional Magistrate, Bhabua (Kaimur) has refused to release the vehicle in question citing public interest. In the impugned order, the competent authority has made some observations and it is observed that the involvement of the petitioner cannot be ruled out. It has further been observed that the vehicle, if released, may again be involved in commission of the same crime.



8. In our considered opinion, the competent authority, the Appellate Authority and the Reviewing Authority have erred in taking a view on the basis of such observations. Whether the petitioner is involved or not involved in the alleged offence would be a matter of investigation and unless the investigation reveals the involvement of the petitioner, such observations were not required to be made.

9. So far as the issue of public interest is concerned, we have/ had occasion to discuss the provision of Sub-Rule (3) of Rule 12A which was inserted vide Amendment Rules, 2022 in the Rules of 2021. In the case of **Manjeet Kumar Yadav** (Supra), this Court had made the following observations:-

“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.”

10. In the light of the discussions hereinabove and the judicial pronouncements on the subject, we set aside the impugned orders. The Sub-Divisional Magistrate, Bhabua (Kaimur) is directed to consider the application of the petitioner for release of the vehicle afresh keeping in view the law and the judicial pronouncements on the subject. Such decision shall be made and communicated to the petitioner within a period of four weeks from the date of receipt/production of a copy of this order.

11. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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CAV DATE	
Uploading Date	28.11.2025
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