

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14985 of 2025

Prasant Kishore Thakur Son of Prashuram Kishor Thakur, R/o Ushayan,
Mahatma Gandhi Nagar, Kanti Factory Road Nala, P.S.- Patrakar Nagar,
District- Patna, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Prohibition Excise and Registration Department, Government of Bihar, Patna.
2. The District Magistrate cum Collector, Patna.
3. The Commissioner Prohibition Excise and Registration Department, Government of Bihar, Patna.
4. The Assistant Commissioner, Prohibition Excise and Registration Department, Government of Bihar, having office of Sandalpur, Kumhrar, Patna.
5. The Senior Superintendent of Police, Patna.
6. The Station House Officer, Excise, Patna Sadar Police Station, Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Raju Giri, Senior Advocate Mr. Harsh Vardhan, Advocate Mr. Harsh Raj, Advocate Mr. Chetan Anand, Advocate
For the State	:	Mr. P.K. Shahi, Advocate General Mr. S. Raza Ahmad, AAG-5 Mr. Alok Ranjan, AC to AAG-5

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

Date : 22-12-2025

Heard Mr. Raju Giri, learned Senior Counsel assisted by
Mr. Harsh Vardhan, learned counsel for the petitioner, Mr. P.K.
Shahi, learned Advocate General and Mr. S. Raza Ahmad, learned
AAG-5 assisted by Mr. Alok Ranjan, learned AC to AAG-5 for the
State of Bihar.



2. The brief facts of the case and the issues which have cropped up for consideration in the present case have been taken note of by this Court in its order dated 25.11.2025 which we reproduce hereunder for a ready reference:-

“Heard Mr. Raju Giri, learned Senior Counsel for the petitioner and Mr. Alok Ranjan, learned AC to AAG-9 for the State of Bihar.

2. The grievance of the petitioner is that even though the authorities who deal with the confiscation matter and the appeal and revision were fully aware that the vehicle of the petitioner had been stolen away for which the petitioner had lodged one FIR and the involvement of the petitioner has not been found in the said case registered by the petitioner, still all these authorities have proceeded to pass an order whereby the petitioner has been directed to deposit 10% of the insured value of the vehicle by way of penalty for release of the vehicle.

3. Learned Senior Counsel for the petitioner points out from the order dated 19.06.2025 passed by the Secretary, Department of Prohibition and Excise, Government of Bihar that the Revisional Authority has taken note of a judgment of this Court in **CWJC No. 11678 of 2022 (Ramprakash Paswan Vs. The State of Bihar and Others)** and in fact, he has quoted certain part of the order of this Court in the impugned order dated 19.06.2025, however, there are recent judgments of this Court in the



case of **Manjeet Kumar Yadav Vs. The State of Bihar & Ors. (C.W.J.C. No. 10126 of 2025)** and in the case of **Santosh Kumar Vs. The State of Bihar & Ors. (C.W.J.C. No. 10777 of 2025)** in which this Court has held that in the case of theft of vehicle where the vehicle has been found with the liquors and the involvement of the owner of the vehicle has not been found, the vehicle is liable to be released and in such cases, the confiscation proceeding cannot go on. Still the judgments of this Court are not being followed and the authorities in the Department of Prohibition and Excise are passing orders in breach of the judgments of this Court.

4. We grant two weeks time to the State Respondents to file a comprehensive counter affidavit. Since we propose to register a contempt proceeding, if it is found that the authorities are acting in complete disregard and disobedience to the judgment of this Court, the respondents shall also explain as to why contempt proceeding be not ordered to be registered.

5. List this case on 10.12.2025 under the same heading.

6. In the meantime, the vehicle in question shall not be auction sold if not already auction sold. If the vehicle has been auction sold, the procedure followed during the auction and the name of the auction purchaser shall be disclosed in the counter affidavit.”



3. Pursuant to the aforementioned order, a counter affidavit as well as a show cause have been filed on behalf of Respondent Nos. 1 and 2.

4. Earlier, when the matter was taken up for consideration after filing of the counter affidavit and show cause, learned AC to AAG-5 informed this Court that considering the impact of the judgment which may have, the matter will be argued by learned Advocate General and learned AAG-5.

5. Today, this Court has the advantage of hearing learned Advocate General as well as learned AAG-5 for the State of Bihar.

6. During pendency of this writ application, this Court had occasion to consider an almost similar matter in **CWJC No. 19659 of 2025 (Bimlesh Kumar Vs. The State of Bihar and Others)**. That was also a case in which the vehicle in question was stolen away for which a first information report was lodged by the vehicle owner. When the vehicle was intercepted, it was found that the number plate of the vehicle was changed and a false number plate was placed on the vehicle and altogether 198.720 litres of liquor were being transported. In the said background of the case, this Court while setting aside the revisional order distinguished the judgment of a learned Bench of co-ordinate strength in the case of **Ramprakash Paswan Vs. The State of Bihar and Others**



(CWJC No. 11678 of 2022) and relied upon another co-ordinate Bench judgment of this Court in the case of **Amarjeet Yadav Vs. The State of Bihar and Others (CWJC No. 9517 of 2023)**. For a ready reference, we would reproduce our views expressed in case of **Bimlesh Kumar** (supra) in paragraphs ‘7’, ‘8’, ‘9’ and ‘10’ as under:-

“7. To this Court, it appears that the fact that the vehicle in question was a stolen vehicle and a false number plate was found placed on that when it was intercepted and liquors were found on the same are important facts which cannot be ignored. The vehicle is the property of its owner and a confiscation proceeding being essentially in the nature of a civil proceeding, the owner of the vehicle may be deprived of his property only if it is found that he is involved in the commission of the offence with the help of the said vehicle. In fact, in the case of **Amarjeet Yadav v. State of Bihar and Others (C.W.J.C. No. 9517 of 2023)**, a learned coordinate Bench of this court has observed in paragraph 24 of its judgment as under:-

24. Similarly, there may be a situation where a vehicle has been stolen or robbed by criminal to carry intoxicant or liquor. In such situation also, it cannot be contended that there was involvement or connivance of the owner in commission of the offence under the Act. For such illegal use of the vehicle, the owner



of the vehicle cannot be punished by seizure and confiscation of the vehicle.

8. So far as the reliance placed by the respondent authorities on the judgment of this court in the case of **Ramprakash Paswan** (supra) is concerned, it is evident that after the said judgment, the Bihar Prohibition and Excise Rules 2021 has been lastly amended vide Amendment Rules 2023 vide notification no. 3671 dated 31.05.2023. The amended provision under Sub-Rule 4 of Rule 12A provides some guidelines whereunder it is provided that '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'.

9. This court has no iota of doubt that the mandate as contained in the second part of sub-rule (4) of Rule 12A which provides for consideration of the economic status of the individual and the nature of his involvement in the crime and the quantum of intoxicant recovered are some of the factors which would be required to be considered for purpose of imposing the penalty. Whether it is based on the valuation done by a valuer on the order of the Collector or it is based on the insurance value is immaterial. The factors for



consideration remain the same. The nature of involvement of the vehicle owner being an important guiding factor cannot be ignored by the confiscating authority.

10. We, therefore, find that at the time of the judgment, in the case of **Ramprakash Paswan** (supra), this statutory provision was either not in existence or was not pointed out to this court.”

7. In the present case, it is not in dispute that the vehicle was stolen away for which the petitioner had lodged Patrakar Nagar P.S. Case No. 233 of 2024 dated 13.05.2024 registered under Section 379 of the Indian Penal Code (since repealed). Later on, the same vehicle was seized by the respondent authorities in connection with Excise Patna Sadar P.S. Case No. 1716 of 2024 dated 21.07.2024. Altogether, 220.320 litres of foreign liquors were found thereon. It is evident that the vehicle was found after more than two months of the theft of the vehicle.

8. In the aforementioned background, when the petitioner approached the Confiscating Authority for release of the vehicle, the Confiscating Authority imposed a penalty of Rs.1,44,339/- (Rupees One Lakh Forty Four Thousand Three Hundred Thirty Nine) as required for release of vehicle in terms of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (as amended up to date) (hereinafter referred to as the ‘Rules of 2021



(as amended up to date)'. The Confiscating Authority further directed the petitioner to deposit 3% amount of the penalty amount which comes to Rs.4,331/- (Rupees Four Thousand Three Hundred Thirty One) in the Punjab National Bank account of BSBCL. It is stated in the confiscation order (Annexure 'P/6') that if the entire amount is not deposited within the given period of fifteen days, then the vehicle in question shall be auction sold.

9. Thereafter, the petitioner approached this Court by filing a writ application being CWJC No. 19508 of 2024 which was disposed of on 16.01.2025 giving liberty to the petitioner to file an appeal before the Appellate Authority whereafter he preferred an appeal which came to be disposed of on 18.02.2025 (Annexure '8'). The Appellate Authority did not accept the plea of the petitioner that because his vehicle was stolen away, therefore, it would not be appropriate to impose penalty upon him as a condition precedent for release of the vehicle. Being aggrieved by the order of the Appellate Authority, the petitioner invoked the statutory provision of revision before the Secretary (Prohibition and Excise), Government of Bihar, Patna. The Revisional Authority despite taking note of the fact that the petitioner had lodged a theft case giving rise to Patrakar Nagar P.S. Case No. 233 of 2024 on 13.05.2024 and in the said case, involvement of the



petitioner has not been found, took a view that the vehicle was found carrying liquor, therefore, it may be released only on payment of penalty.

10. We find that the views expressed by the Revisional Authority in the present case are identical to the views expressed in case of **Bimlesh Kumar** (supra).

11. We record a word of appreciation for the stand taken by the learned Advocate General and learned AAG-5 saying that there cannot be any law which does not appeal to the conscience of the people and if any such situation arises, the High Court being a Constitutional Court shall take recourse to the path of justice on the principle that the law bends before justice. It has been, in fact, submitted that wherever there is no involvement of the owner of the vehicle which has been stolen away, the vehicle owner cannot be asked to suffer penalty for purpose of release of the vehicle.

12. We have already expressed the same view in the judgment rendered in the case of **Bimlesh Kumar** (supra). In view of the clear finding recorded in the revisional order (Annexure 'P/9') that there is no involvement of the petitioner in the theft of the vehicle, we make it clear that in such circumstance, no penalty may be imposed as a condition for release of the vehicle.



13. As regards the imposition of 3% of the penalty amount in the account of BSBCL, the learned Advocate General and learned AAG-5 for the State agree that no such imposition could have been levied as it was not having any sanction of law.

14. For the reasons already expressed in the judgment of this Court in the case of **Bimlesh Kumar** (supra), this Court has no iota of doubt that the impugned orders are not sustainable in the eyes of law. This Court has already done to a harmonious construction of the provisions of Rule 12A and Rule 12A(4) of the Rules of 2021 (as amended up to date). The petitioner who would fall in the category of a victim as his property had been stolen away and he had no control over the same is being sought to be punished by imposing penalty for purpose of release of the vehicle.

15. We would, however, hasten to add that wherever any involvement of the vehicle owner is found either in the matter of alleged theft of the vehicle or in the transportation of liquor, the respondent authorities would be well within their power to impose penalty in terms of Rule 12A of the Rules of 2021 (as amended up to date) but such a view may be taken only when there are sufficient materials on the record to demonstrate prima-facie involvement of the vehicle owner.



16. As regards imposition of 3% over and above the penalty amount, we have already held in case of **Bimlesh Kumar** (supra) and identical view is taken in the present case as well. The Confiscating Authority has/had no power to impose such penalty and to direct the petitioner to deposit the same in the account of the BSBCL which is a Government Company. In this regard, our observations in paragraph '12' of the judgment in the case of **Bimlesh Kumar** (supra) are being quoted hereunder:-

“12. It is made clear that the confiscating authority has no power to impose an additional 3% over and above the penalty amount. It is surprising that the confiscating authority has directed the petitioner to deposit 3% of the penalty amount, i.e., Rs. 5,698/- in the account of 'BSBCL', which we understand as Bihar State Beverages Corporation Ltd. By no stretch of imagination, the confiscating authority can assume upon himself a power to impose penalty over and above what has been sanctioned by the law. Recently, we have noticed similar kind of order passed by the confiscating authority in the district of Nalanda in the case of **Shantanu Kumar v. The State of Bihar & Ors.** (C.W.J.C. No. 18561 of 2025) decided on 11.12.2025. Such imposition are wholly unjust and improper. This is an act of undue enrichment caused to a government company, which is not permissible.”



17. In the kind of submissions noted hereinabove, we set aside the impugned orders (Annexures ‘P/6’, ‘P/8’ and ‘P/9’).

18. In result, this writ application is allowed.

19. The District Magistrate, Patna shall pass an order immediately within a period of one week from the date of receipt of this order for release of the vehicle in question in favour of the petitioner on his showing the document of ownership of the vehicle, without any penalty.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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Uploading Date	22.12.2025
Transmission Date	

