

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14783 of 2025

Vikash Kumar S/o Sunil Singh R/o Village- Alipur Bihta, P.S- Salimpur,
District-Patna, Bihar.

... .. Petitioner

Versus

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

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Deepak Kumar, Advocate Mr. Bhaskar Anand, Advocate Mr. Vijay Kumar Vimal, Advocate
For the State	:	Mr. Standing Counsel (09)

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

Date : 18-11-2025

Heard learned counsel for the petitioner and learned SC-
9 for the State.

2. The petitioner in this writ application has challenged
the order of confiscation passed on 04.04.2025 by the Assistant
Commissioner, Prohibition, BSBCL, Patna in Confiscation Case
No. 190/2024-25 by which the vehicle in question has been
ordered to be confiscated on the only ground that it was carrying



commercial quantity of liquor. An appeal preferred before the Excise Commissioner also failed. The order passed by the Appellate Authority is also under challenge in the present writ application.

3. Learned counsel for the petitioner submits that before the Assistant Commissioner, Excise, the petitioner had applied for release of the vehicle in the prescribed format invoking Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (as amended vide Amendment Rules, 2022) (hereinafter referred to as the 'Rules of 2021'), however, the same has been disallowed for the reason that the vehicle was carrying commercial quantity of liquor.

4. It is submitted that recently, in the case of **Santosh Kumar Vs. The State of Bihar and Others (CWJC No. 10777 of 2025)** and in the case of **Manjeet Kumar Yadav Vs. The State of Bihar and Others (CWJC No. 10126 of 2025)**, this Court has considered sub-rule (3) of Rule 12A of the Rules of 2021 whereunder the word 'public interest' is occurring and by taking recourse to the said sub-rule of Rule 12A, the Confiscating Authority may refuse to release a vehicle citing 'public interest'. It is submitted that the petitioner is ready to pay the penalty amount as may be advised by the Confiscating Authority. He is not involved in any other case under the liquor laws and the vehicle in



question has also been seized allegedly for transportation of liquor for the first time. There is no prior case.

5. Learned SC-9 has defended the impugned orders. It is submitted that before the Confiscating Authority, the petitioner never took a plea that he was not aware of the unlawful transportation of liquor. However, on the query made by this Court, learned SC-9 admits that in the impugned order, there is no finding that the petitioner is involved in cases of similar nature and/or the vehicle in question has been found involved in transportation of liquors on earlier occasions as well.

6. Having regard to the entire facts and circumstances of the case and the submissions which we have noted hereinabove, we are of the considered opinion that invocation of sub-rule (3) of Rule 12A of the Rules of 2021 in the present case is not based on a cogent reason. What would be 'public interest' as envisaged under sub-rule (3) of Rule 12A has been discussed by this Court in the case of **Santosh Kumar** (Supra) and **Manjeet Kumar Yadav** (Supra). The relevant part of the judgment of this Court in the case of **Manjeet Kumar Yadav** (Supra) are being quoted hereunder for a ready reference:-

“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."

7. In the light of the discussions made hereinabove, this Court is of the considered opinion that the impugned orders cannot sustain the test of law. The Appellate Authority has also failed to consider this aspect of the matter.

8. Accordingly, this Court setsleghi aside the impugned orders and allows this writ application. The consequential order for auction of the property shall not operate.

9. The Confiscating Authority is directed to consider the request of the petitioner for release of the vehicle on payment of penalty amount. Such decision shall be taken by the Confiscating Authority within one month from the date of receipt/communication of a copy of this order.



10. We have noticed on going through the contents of the impugned orders passed in **CWJC No. 12285 of 2025 (Ajit Kumar Vs. The State of Bihar and Others)** and in the present case that the Confiscating Authority is passing the orders of confiscation by applying ‘cut and paste’ method and the orders are being passed in a routine and mechanical manner. The identical paragraphs in identical words have been found in the operative part of the order of the Confiscating Authority.

11. We deprecate this approach of the Assistant Commissioner, Prohibition, BSBCL, Patna and impose a cost of Rs.5,000/- upon him which shall be payable by him within four weeks from today to the Patna High Court Legal Services Committee.

12. This writ application stands allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

lekhi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.11.2025
Transmission Date	NA

