IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16350 of 2025

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Munna Prasad, Son of Mangal Prasad Resident at village- Bari Bazar Mohania ward no.10, P.S.- Mohania, District- Kaimur at Bhabhua

... ... Petitioner

Versus

1. The State of Bihar through Director General of Police, Bihar Patna
2. The Excise Commissioner, Bihar Patna
3. The District Magistrate Kaimur at Bhabhua
4. The Excise Superintendent Kaimur at Bhabhua
5. The Senior Superintendent, Police Kaimur at Bhabhua
6. The S.H.O. Excise Police Station Kaimur at Bhabhua

... ... Respondents

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Appearance :

For the Petitioner	:	Ms. Kiran Kumari Sharma, Advocate
For the Respondents	:	Mr. AC to Government Advocate 08

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

5 12-12-2025 Heard learned counsel for the petitioner and learned AC to GA-8 for the State of Bihar.

2. This case was taken up for consideration yesterday. This Court passed the following order:-

> "**<u>I.A. No. 1 of 2025</u>**
>
> The petitioner has filed an interlocutory application seeking setting aside of the order dated 27.12.2024 passed by Sub-Divisional Magistrate, Bhabhua at Kaimur in Excise Confiscation Case No. 687 of 2024. Copy of the same has already been filed online.
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> **2.** Office to register it.

3. Having regard to the formal kind of prayer made in the interlocutory application, we allow I.A. No. 1 of 2025. Let the averments made therein and the order of confiscation enclosed therewith be treated as part and parcel of the writ application.

4. A counter affidavit has been filed on behalf of Respondent No. 3 i.e. the District Magistrate, Kaimur at Bhabhua. Apart from pleading the other things, Respondent No. 3 has brought to the notice of this Court that this petitioner is a habitual offender. He is accused in Excise P.S. Case No. 348 of 2025 dated 18.05.2025 registered under Sections 30(a), 32(1), 32(3), 41(1) and 42(2) of the Bihar Prohibition and Excise Act, 2016. Learned GA-8 for the State has informed that the petitioner is an accused in Excise P.S. Case No. 513 of 2025 dated 15.08.2025. Earlier, 607.99 litres and 520.2 litres liquors were found under transportation.

5. It is also stated that in the confiscation case, despite notice, the petitioner did not appear.

6. In order to fully appreciate the matter, we have called upon learned counsel for the petitioner to seek instruction from the petitioner and inform this Court that in how many cases of similar nature, the petitioner is an accused and whether he is on bail in those cases.

7. List this case tomorrow i.e. on 12.12.2025 for further consideration.”

3. Today, learned counsel for the petitioner has informed that the fact that the petitioner is an accused in Kaimur Excise P.S. Case No. 348 of 2025 dated 18.05.2025 registered under Sections 30(a), 32(1), 32(3), 41(1) and 42(2) of the Bihar Prohibition and Excise Act, 2016 (as amended up to date) (hereinafter referred to as the ‘Act of 2016’) is a correct statement of fact. It is, however, informed that the petitioner is not an accused in Excise P.S. Case No. 513 of 2025 dated 15.08.2025.

4. Learned counsel submits that the Confiscating Authority as well as the Appellate Authority have refused to release the vehicle in question taking note of the fact that the vehicle in question was involved in transportation of 259.2 litres of liquors. It is submitted that 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)’) provides for release of the vehicle seized for alleged transportation of liquor on payment of penalty and such penalty amount may be fixed taking into consideration the quantum of liquor found on the vehicle. It is submitted that in several cases, the competent authority has allowed release of the vehicle and in some cases even this Court has taken a view that the release of the vehicle cannot be denied merely on the consideration of the quantum of liquor.

5. On the other hand, learned AC to GA-8 for the State submits that the general rule that a vehicle found carrying liquor be released on payment of penalty would not apply in the facts of this case. It is submitted that in this case, not only huge quantity of liquor has been recovered from the vehicle, the fact is that the petitioner is an accused in Kaimur Excise P.S. Case No. 348 of 2025 registered on 18.08.2025 under Sections 30(a), 32(1), 32(3), 41(1) and 42(2) of the Act of 2016. It is pointed out that the vehicle seized in connection with Kaimur Excise P.S. Case No. 348 of 2025 also belongs to the petitioner and from said vehicle altogether 607.920 litres of liquors were found. It is submitted that learned counsel for the petitioner while seeking release of the vehicle made a wrong submission before the Confiscating Authority that the petitioner has no criminal antecedent.

6. Having regard to the rival submissions noted hereinabove and the materials available on the record, we are of the considered opinion that no fault may be found with the exercise of power by the competent authority/Confiscating Authority in the present case. The petitioner is an accused in Kaimur Excise P.S. Case No. 348 of 2025 in which huge quantity of liquor (607.920 litres) was recovered from the vehicle i.e. truck bearing Registration No. UP 65 ET0842. It is stated by learned counsel for the petitioner that he is on bail in the said case, however, that would not be a mitigating circumstance for taking a view that in the present case, the vehicle in question be released in terms of Rule 12A of the Rules of 2021 (as amended).

7. We are of the opinion that sub-rule (3) of Rule 12A which talks of power upon the competent authority to refuse to release the vehicle in public interest has been rightly invoked in this case. This Court in exercise of its power under Article 226 of the Constitution of India is not inclined to exercise its discretion so as to interfere with the order of confiscation passed by the competent authority which has been affirmed in appeal.

8. This writ application is dismissed.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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