

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16421 of 2025

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Ali Ashraf Siddique, Son of Late Badrul Hoda Siddiqui, M.L.A. 158 Nath Nagar, Bhagalpur, Resident of Village- Jamgaon, P.O.- Baluachak, P.S.- Jagdishpur, District- Bhagalpur, presently resided at Ismail Cottage Haroon Nagar, Phase- II, P.S.- Phulwari Sharif, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise, Government of Bihar, Patna.
2. The Excise Commissioner, Bihar, Patna.
3. The District Magistrate, Siwan.
4. The Superintendent of Police, Siwan.
5. The Station House Officer of Excise Police Station, Siwan.
6. The District Magistrate, Patna.
7. The S.H.O. of Phulwari Sharif Police Station, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Md. Nurul Hoda, Advocate
		Mr. Satish Chandra Mishra, Advocate
For the Respondents	:	Mr. Saroj Kumar Sharma, AC to AAG-3

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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 AC to AAG-3 for the State of Bihar.

2. The petitioner in this writ application has questioned the order dated 17.06.2025 passed by the Excise Commissioner in Excise Appeal No. 60 of 2025 whereby and whereunder he has been pleased to dismiss the appeal affirming the order of the District Panchayat Raj Officer, Siwan. The appellant-petitioner was



directed to fill Form-IV before the District Officer, Siwan and deposit the penalty amount whereupon the District Officer, Siwan has been directed to pass an appropriate order in accordance with law. If the penalty amount is not deposited within fifteen days from the date of submission of the application then the District Magistrate has been directed to proceed to auction sale the vehicle.

3. Learned counsel for the petitioner has drawn the attention of this Court towards Annexure 'P/2' to the writ application which is a copy of the FIR giving rise to Phulwarisharif P.S. Case No. 5117060240643 of 2024 registered on 06.05.2024 for the offence under Section 379 of the Indian Penal Code. It is submitted that the vehicle in question was stolen away and it was seized after about one month ten days loaded with 405.840 litres of foreign liquor.

4. Learned counsel points out from the order of the Appellate Authority that there is a clear finding to the effect that in the theft case, involvement of the petitioner is not appearing/found but even after holding this, the Appellate Authority has taken a view that it cannot be denied that violation of prohibition laws has taken place by this vehicle.

5. Learned counsel submits that this Court has in the case of **Sunaina @ Suneina Vs. The State of Bihar and Others (CWJC No. 7920 of 2023)** held that if the involvement of the



owner of the vehicle is not there in the commission of the alleged offence of transportation of vehicle, the vehicle cannot be subjected to a confiscation proceeding.

6. Mr. Saroj Kumar Sharma, learned AC to AAG-3 for the State has not disputed the fact that in the appellate order itself, the Appellate Authority has recorded that the petitioner does not seem to be involved in the theft case of the vehicle.

7. Having regard to the aforementioned submissions and the materials available on the record, we are of the considered opinion that if the vehicle in question was stolen away on 06.05.2024 and in this regard, one FIR was lodged by the petitioner as also that the name of the petitioner has not been found involved in the said theft case, the Confiscating Authority and the Appellate Authority both have erred in appreciating the case of the petitioner. The case is squarely covered by the earlier Hon'ble Division Bench judgment of this Court in the case of **Sunaina** (Supra).

8. In addition, we have been informed by learned counsel for the petitioner that the petitioner has no criminal antecedent of similar nature and the vehicle in question has never been seized earlier in connection with transportation of illicit liquor.

9. In the given circumstances, we set aside the impugned orders and direct release of the vehicle of the petitioner within a



period of three days from the date of receipt/communication of a copy of this order.

10. Learned counsel for the petitioner submits that in the case of **Khushboo Rani Vs. The State of Bihar and Others (CWJC No. 1860 of 2025)**, the Hon’ble Division Bench having noticed that the petitioner has to move this Court without there being any role in the excise offence allowed a litigation cost of Rs.10,000/- to the petitioner.

11. Having regard to the aforesaid view of the Hon’ble Division Bench taken in case of **Khushboo Rani** (Supra), we allow a sum of Rs.10,000/- (Rupees Ten Thousand) as cost of litigation to the petitioner which will be payable by the State within one month from today. It is open for the State to realize the said amount from the erring officials in accordance with law.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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

