

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17581 of 2025

=====

Avinash Kumar @ Amresh Kumar @ Amitabh Kumar, S/o Late Jayram
Sharma Resident of Bhori, P.S.- Pura, Dist- Gaya Jee, Bihar

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Bihar, Prohibition and Excise
Department, Bihar, Patna
2. The District Magistrate Gaya
3. The Superintendent of Excise Gaya
4. The Superintendent of Police Gaya
5. The Officer in charge Panchanpur Police Station, Distt- Gaya

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr. Abhijeet Abhigyan, Advocate Mr. Dhananjay Kumar, Advocate
For the State	:	Mr. Sita Ram Yadav, GP-16 Mr. Rakesh Kumar Shrivastava, AC to GP-16

=====

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

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 19-12-2025 Heard learned counsel for the petitioner and learned
GP-16 for the State.

2. A counter affidavit has been filed. Let it be taken on
the record.

3. The petitioner in this case is seeking a direction to
the respondents to release the vehicle/motorcycle bearing
Registration No. BR02AP6418 in favour of the petitioner.

4. The vehicle has been seized in connection with
Panchanpur P.S. Case No. 105 of 2025 dated 20.05.2025
registered for the offence under Section 30(a) of the Bihar



Prohibition and Excise Act, 2016 (as amended up to date).

5. As per the allegations, the petitioner was found in possession of 750 ml bottle of liquor (whiskey) and the breath analyzer report showed that he had consumed about 100 ml of liquor.

6. Learned counsel for the petitioner submits that one bottle of 750 ml liquor was recovered from the possession of the petitioner as alleged, it was found from the waist of the petitioner, therefore, in view of the settled judicial pronouncements, it cannot be said that the vehicle in question was involved in transportation of liquor. Reference in this regard has been made to the judgment of this Court in the case of **Shanti Devi Vs. State of Bihar (CWJC No. 10227 of 2022)** and **Sunaina @ Suneina versus State of Bihar and Ors.** reported in **2024 (3) BLJ 163.**

7. Learned GP-16 for the State does not contest the submission that the vehicle was not transporting liquor, rather, the liquor was found from the person of the petitioner as per the FIR. Learned GP-16 for the State admits that in the counter affidavit, it has been inadvertently stated that the liquor was found from the vehicle.

8. Having regard to the submissions noted hereinabove and the materials present on the record, particularly, the copy of



the FIR, we are of the considered opinion that in the present case, it cannot be said that vehicle was carrying or engaged in transportation of liquor. This Court has taken identical views in several other cases including one of **Shanti Devi** (supra). In fact, the State had challenged the judgment of this Court in case of **Shanti Devi** (supra) before the Hon'ble Supreme Court, however, no stay of the judgment has been granted.

9. In the circumstances, we are of the opinion that the vehicle is not liable to be confiscated.

10. Keeping in view Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (as amended up to date), we grant liberty to the petitioner to file an appropriate application before the District Magistrate, Gayajee (Respondent No. 2) who will consider the same and pass an appropriate order for release of the vehicle keeping in view the judicial pronouncements on the subject.

11. This writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

lekhi/-

U			
---	--	--	--

