IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17743 of 2025

==

Manish Giri S/o Ramesh Giri, R/o 5 A1-41 Second Floor, Vishnu Garden, West Delhi, Delhi, Pin Code- 110018.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner Excise Department, State of Bihar Patna.
2. The Secretary, Bihar Excise Department, Patna.
3. The Director General of Police, Bihar Patna.
4. The District Magistrate, Kaimur at Bhabua.
5. The Sub-Divisional Magistrate, Mohania, Kaimur at Bhabua.
6. Station Head Officer, Police Station, Mohania Kaimur at Bhabua.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Tribhuwan Narayan, Advocate
For the Respondent/s	:	Mr. Arvind Ujjwal, SC-4
		Mr. Upendra Pratap, AC to SC-4

==

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

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SOURENDRA PANDEY)

2 03-12-2025 This application has been filed for setting aside the order dated 07.08.2025 passed by the Sub-Divisional Magistrate, Mohania, Kaimur, in Excise (Vehicle Confiscation) Case No. 35 of 2025, whereby the petition filed by the petitioner under Sub-Rule (2) of 12A of the Bihar Prohibition and Excise (Amendment) Rules, 2022 (in short, Excise Rules) to release the seized vehicle in his favour was rejected and the competent authority has further directed the sale of the said

vehicle through auction.

2. The learned counsel for the petitioner has submitted that the petitioner is the owner of the seized vehicle being Tata Nexon car bearing Registration No. DL4CBC6958, chassis no. MAT627017PLH97812 and engine no. REVTRN21HWXKA0783. It has been submitted that the said vehicle was seized in connection with Mohaniya P.S. Case No. 16 of 2025, wherein 419.13 liters of country-made foreign liquor were recovered, however, the driver of the vehicle managed to escape.

3. It has been submitted that the petitioner, being the owner of the vehicle, filed an application under Sub-Rule (2) of Rule 12A of the Excise Rules before the Sub-Divisional Officer, Mohaniya, in Confiscation Case No. 35 of 2025 for releasing his vehicle, after imposing an appropriate penalty. It has been submitted that the learned Sub-Divisional Magistrate, Mohaniya, Kaimur, after hearing the parties, vide his order dated 07.08.2025, dismissed the petition filed by the petitioner and directed for confiscation of the vehicle in question and further directed to sell the same through auction sale.

4. Learned counsel for the petitioner submits that the competent authority, ignoring the provisions of the aforesaid

Rules has passed the order of confiscation and auction sale without adhering to the mandate of the statute as contained in Sub-Rule (2) of Rule 12A. It has been submitted that the impugned order is illegal and has been passed with a *malafide* intention in order to confiscate the vehicle of the petitioner.

5. The learned AC to SC-4 appearing on behalf of the State has submitted that the order impugned has been passed taking into account the fact that the vehicle was confiscated after 419.13 liters of country-made foreign liquor were recovered from the same, which is a huge quantity. It has been submitted that there is departmental letter no. 3095 dated 26.04.2022, wherein it has been stated that legal proceedings be followed after taking into account the nature of use of the vehicle i.e. the personal or commercial usage and the social/financial status of the owner of the vehicle. It has been stated that the said order has been passed taking into account the aforesaid factors and after applying his judicious mind, the competent authority has held that the vehicle was seized with a huge quantity of liquor and it comes within the ambit of confiscation and therefore the said order was passed.

6. We have heard the learned counsel for the petitioner as well as the learned counsel for the State and we

find that the order impugned has been passed taking into account that the vehicle was carrying illicit liquor and therefore, it falls under the category wherein it could be confiscated. It is relevant to point out that the provisions as contained under Sub-Rule (2) of Rule 12A of the Excise Rules does not contemplate any such reasoning for confiscation of the vehicle rather it speaks about the penalty to be imposed, taking into account the quantity of intoxicant recovered, the involvement of the vehicle owner and the latest insurance value of the vehicle.

7. We are of the considered opinion that the reasoning given by the competent authority does not fall within the ambit of the said Rules and therefore, we find the order to be not only against the provisions of the Excise Rules but also against various judicial pronouncements of this Court. We would like to refer here to the judgment passed in the case of ***Santosh Kumar vs. The State of Bihar and Others (CWJC No. 10777 of 2025)***, wherein we have taken note of a similar order and have set aside it, remanding the matter back to the competent authority for fresh consideration. The extract of paragraph nos. 10 and 11 of the aforesaid judgment dated 13.11.2025 is reproduced herein:

10. On a bare reading of the scheme of Rule 12A, we find that the quantum of liquor found on the vehicle is one of the factors to be considered for the purpose of reaching to a conclusion as to the quantum of penalty which may be imposed in the matter of release of the vehicle. The legislatures in their wisdom have not provided as to what will be a commercial quantity. Under the Rules it is not the mandate of the legislatures that in a case where vehicle is found carrying a particular quantity of liquor, shall not be released on payment of penalty. No doubt sub-rule (3) of Rule 12A provides for an exception to the general rule of the release of vehicle but such power under sub-rule (3) of Rule 12A may be exercised only when the Competent Authority finds that it would not be fit to release the vehicle in public interest.

11. The words 'public interest' had fallen for consideration before the Hon'ble Supreme Court in the case of **Bihar Public Service Commission versus Saiyad Hussain Abbas Rizwi and Another** reported in **(2012) 13 SCC 61** Referring to its judgment in the case of **State of Bihar V. Kameshwar Singh** reported in **AIR 1952 SC 252,** the Hon'ble Supreme Court observed in para '22' as under:-

> 22**.** The expression "public interest" has to be understood in its true connotation so as to give complete meaning to the

relevant provisions of the Act. The expression "public interest" must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms of the Act. In its common parlance, the expression "public interest", like "public purpose", is not capable of any precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statute in which it occurs, the concept varying with time and state of society and its needs (*State of Bihar* v. *Kameshwar Singh)*[5]. It also means the general welfare of the public that warrants recognition and protection; something in which the public as a whole has a stake [*Black's Law Dictionary* (8th Edn.)].

8. In view of the aforesaid judgment passed by this Court in ***Santosh Kumar (supra)***, the impugned order of confiscation passed by the Sub-Divisional Magistrate, Mohania, Kaimur in Excise (Vehicle Confiscation) Case No. 35

of 2025 dated 07.08.2025 is hereby set aside. The matter is remitted to the competent authority to consider the application of the petitioner afresh and pass a reasoned order taking into account the orders passed by this Hon’ble Court as pointed out above within a period of four weeks from the date of receipt/production of the copy of this order and pass an appropriate order taking into account the judgment of this Court.

9. In the meantime, the competent authority shall not proceed with the auction sale of the vehicle of the petitioner.

10. The writ petition stands allowed with the aforesaid observations.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

aditya/-

U			