

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18384 of 2025

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Mantu Kumar, S/o Rinku Goand, Resident of Village- Itadhi, P.O.- Kaithi,
P.S.- Sonahan, District- Kaimur (Bhabua).

... .. Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate, Kaimur (Bhabua).
3. The Superintendent of Police, Kaimur (Bhabua).
4. The Superintendent of Prohibition, Kaimur (Bhabua).
5. The Sub- Divisional Magistrate, Mohania, Kaimur (Bhabua).
6. The Station House Officer, Mohania Police Station, Kaimur (Bhabua).

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Sarfraz Ahmad, Advocate Mr. Sonu Singh, Advocate
For the State	:	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 ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 10-12-2025 Heard learned counsel for the petitioner and learned
AC to AAG-3 for the State of Bihar.

2. This writ application has been filed for setting aside the order dated 07.08.2025 passed by learned Sub-Divisional Magistrate, Mohania (Kaimur) in Excise Case No. 26/2025 arising out of Mohania P.S. Case No. 846 of 2024 whereby and whereunder the Sub-Divisional Magistrate, Mohania (Kaimur) has been pleased to reject the prayer for the petitioner for release of the vehicle bearing Registration No. BR45P7115 (Green Colour Bajaj Auto Rickshaw), Chassis No.



MD2B47AX4RWE61081 which has been seized in connection with Mohania P.S. Case No. 846 of 2024.

3. Learned counsel for the petitioner submits that the request of the petitioner for release of the vehicle in question has been rejected on the ground that in Departmental Letter No. 134 dated 15.01.2024 and Departmental Letter No. 3095 dated 26.04.2022, some guidelines have been provided by the competent authority in the matter of release of the vehicle. According to the competent authority, the release of vehicle may be refused if the vehicle is found carrying prohibited liquor.

4. In almost similar circumstance, this Court had occasion to consider the guidelines issued by the District Magistrate, Gopalganj vide Memo No. 4025/Excise dated 17.11.2023 by which a direction has been issued that in case, a two-wheeler carrying more than five litres and four-wheeler carrying more than ten litres of liquor is seized then such vehicles shall not be released only on payment of penalty because such release would create hindrance in successful implementation of the provisions of the Prohibition Laws.

5. This Court held that the kind of guideline issued by the District Magistrate is against the scheme of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (as amended up to



date). Paragraphs '8' to '12' of the judgment in the case of **Manjeet Kumar Yadav Vs. The State of Bihar and Others** (CWJC No. 10126 of 2025) are being produced hereunder for a ready reference:-

“8. In past, it was noticed that huge number of vehicles, which were seized in connection with the Prohibition Laws were lying outside the police station occupying the road areas and those were being damaged due to the delay in disposal of confiscation cases and auction sale which were intermittently facing legal actions and the hindrances. In order to come out of such a situation, Rule 12A has been inserted. Sub-Rule (2) of Rule 12A, nowhere prescribes that the vehicle shall not be released if more than five liters or ten liters of liquors have been found in the vehicle. The Legislature have in their wisdom provided that quantum of penalty has to be fixed giving due regard to the quantity of intoxicant recovered, the involvement of the vehicle owner and the latest insured value of the vehicle. The general guideline issued by the Collector that the vehicle involving in transportation of more than five liters or ten liters shall not be released on payment of compensation seems to be against the scheme of Rule 12A of the Rules of 2021.

9. This Court specifically called upon the learned counsel for the State to show as to whether the Collector has any power under the Rules of 2021 to issue such order/directions in the matter of release of the vehicle. Learned counsel has submitted that no such provision is there empowering the Collector to provide any such guideline.

10. 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.)]."

11. Since Rule 12A(3) talks of 'public interest' but it has not been clearly explained in the Rules, we would take a cue on this from the judgment of the Hon'ble Supreme Court in the case of **Saiyad Hussain Abbas Rizwi (supra) and Kameshwar Singh (supra)**. To us, it appears that the legislatures in their wisdom have inserted Rule 12A with a conscious decision to allow release of the vehicles on payment of penalty. One of the factors to be taken into consideration for the purpose of arriving at the quantum of penalty is the quantum of liquors loaded on the vehicle, therefore, only on the ground of quantity of liquor, the competent authority cannot reject an application for release of the vehicle.

5. AIR 1952 SC 252



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'."

6. Having regard to the submissions noted hereinabove and the judgment of this Court in the case of **Manjeet Kumar Yadav (supra)**, this Court is of the considered opinion that the impugned orders are liable to be held bad in law.

7. Accordingly, we set aside the impugned order dated 07.08.2025 passed by Sub-Divisional Magistrate, Mohania (Kaimur) in Excise (Vehicle Application) Case No. 26/2025.

8. The Sub-Divisional Magistrate, Mohania (Kaimur) shall consider the request of the petitioner afresh keeping in view the law and the judicial pronouncements on the subject. Such consideration must be given within a period of one month and an appropriate order be passed within the said period.

9. Before we part with this order, it is required to be



noted that the orders which are being passed by the Sub-Divisional Magistrate, Mohania (Kaimur) in confiscation matters are not consistent, this Court has noticed in other cases that sometimes release has been allowed even as the vehicle has been found carrying more than the quantity involved in this case on the payment of penalty. The Competent Authority is directed to look into this aspect of the matter. It is expected that the order of the Sub-Divisional Magistrate, Mohania (Kaimur) be consistent.

10. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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