

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18993 of 2025

Mithilesh Kumar @ Mithlesh Kumar, Son of Bameshwar Prasad, Resident of Village- New Colony Bhaluahi Kharkhura Gali No.- 3 D, Gaya, Police Station- Delha, District- Gayaji.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Excise Department, Bihar, Patna.
2. The District Magistrate, District- Gayaji.
3. The Senior Superintendent of Police, Gayaji, Bihar.
4. The Officer Incharge, Excise P.S. Sherghati, District- Gayaji.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Arvind Kumar Singh, Advocate
For the Respondents	:	Mr. AC to SC-4

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

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 08-12-2025 Heard learned counsel for the petitioner and learned
AC to SC-4 for the State of Bihar.

2. The petitioner in this case is seeking a direction to the Respondent Authorities to release the vehicle of the petitioner being Honda Shine Motorcycle bearing Registration No. BR02AC9175, Chassis No. ME4JC731AG8005670 and Engine No. JE73E80015612 which has been seized in connection with Excise Thana Sherghati P.S. Case No. 136 of 2024 dated 23.08.2024 registered under Sections 30(a) and 32 of the Bihar Prohibition and Excise (Amendment) Act, 2018.

3. Learned counsel for the petitioner submits that the



vehicle in question was, in fact, stolen away on 24.06.2024 at about 12:30 O'clock. The theft was committed when the vehicle was parked outside the Gayaji court premises. It is stated that in this connection, Civil Lines P.S. Case No. 342 of 2024 of District- Gayaji has been registered on 29.06.2024 under Section 379 of the Indian Penal Code.

4. Learned counsel submits that later on, on 23.08.2024, the vehicle in question was seized in connection with Excise Thana Sherghati P.S. Case No. 136 of 2024 registered on 23.08.2024 and 65 litres of country made liquors were recovered from the vehicle on which two persons, namely, Raj Kumar and Govind Kumar were riding. Four persons were arrested and the liquors were seized.

5. Learned counsel for the petitioner submits that in such circumstance where the vehicle was stolen away, the petitioner would not be liable to pay any penalty and the vehicle must be released in favour of the petitioner.

6. On the other hand, learned AC to SC-4 for the State submits that the petitioner may approach the District Magistrate, Gayaji (Respondent No. 2) with an appropriate application and proposal in Form IV seeking release of the vehicle in question. Before the District Magistrate, Gayaji (Respondent No.2), the



petitioner may bring the entire facts and circumstances including the fact that the vehicle was stolen one. If it is found that the vehicle was stolen away and the petitioner had no role to play in the said theft of the vehicle, the District Magistrate, Gayaji (Respondent No. 2) shall consider the request of the petitioner for release of the vehicle without paying any penalty. In case, however, it is found that the petitioner is himself involved in the theft case, in such case, the petitioner would be liable to pay penalty in terms of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (as amended up to date).

7. Having regard to the submissions noted hereinabove and keeping in view the judicial pronouncements on the subject, we grant liberty to the petitioner to file an appropriate application with proposal in Form IV before the District Magistrate, Gayaji (Respondent No. 2) within a period of 30 days from today. He will bring to the notice of Respondent No. 2 the fact that the vehicle had been stolen away from his possession. The District Magistrate, Gayaji (Respondent No.2) shall consider the request of the petitioner for release of the vehicle and, in case, it is found that the petitioner was not involved in the alleged theft of the vehicle and had not played any role, the seized vehicle may be released without asking for



payment of penalty but in case, the involvement of the petitioner is found in the theft case, the petitioner would be liable to pay penalty and such penalty shall be fixed by the Respondent No. 2.

8. In any case, the Respondent No. 2 must consider the request of the petitioner for release of the vehicle and pass an appropriate order thereon within one month from the date of filing of the application with proposal for release of the vehicle by the petitioner.

9. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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