IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19659 of 2025

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Bimlesh Kumar S/o Braj Nandan Sharma, Resident of East Laxmi Nagar Khemanichak, P.S.- Ram Krishna Nagar, District Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary Prohibition and Excise Govt. of Bihar at Patna.
2. The Secretary, Prohibition and Excise Govt. of Bihar at Patna.
3. The Commissioner Excise Bihar, Patna.
4. The Deputy Commissioner Excise (Headquarter) Bihar, Patna.
5. The Assistant Commissioner Excise, B.S.B.C.L. Bihar Prohibition and Excise and Registration Department Sandalpur Road Kumharar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Satyendra Kumar Srivastava, Advocate
For the State	:	Ms. Archana Meenakshee, GP-6
		Mr. Rana Veer Prawar, AC to GP-6

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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 : 18-12-2025

Heard the learned counsel for the petitioner and learned GP-6 for the State.

2. The petitioner in this case is seeking release of his vehicle (Innova Crysta Car) bearing registration no. BR01HM-5806, Engine No. 2GDA779788 and Chassis No. MBJJB8EM101656705-0124, which has been seized in connection with Excise Patna P.S. Case No. 336 of 2025 registered on 03.03.2025 for offence alleged under Sections

30(a) & 56(b) of Bihar Prohibition and Excise Act, 2016 and Amendment Act, 2022.

3. The petitioner in the present case is seeking to challenge the order passed by the Revisional Authority in Excise Revision Case No. 24 of 2025, whereby and whereunder the Revisional Authority has refused to interfere with the appellate order and the confiscation order passed by the Assistant Commissioner, Excise in Vehicle (Acquisition) Case No. 212 of 2025-26. It is submitted that the vehicle in question was seized in connection with Excise Patna P.S. Case No. 336 of 2025, dated 03.03.2025, for allegedly carrying 198.720 litres of liquors. The Confiscating Authority has, though, directed for release of the vehicle in terms of Rule 12A(2) of the Bihar Prohibition and Excise Rules 2021 as amended up to date on payment of 10% of the insured value, plus 3% thereof, the grievance of the petitioner is that neither the Confiscating Authority nor the Appellate and Revisional Authority has duly considered the case of the petitioner, wherein it is specific ground of the petitioner that the vehicle in question was stolen away from his possession and in this connection he had lodged Shastrinagar P.S. Case No. 788 of 2024, dated 8.10.2024, registered under Section 303(2) of the

B.N.S., 2023. He had pointed out that the actual registration number of the vehicle is BR01HM-5806, but the person who had stolen away the vehicle had changed the number plate of the vehicle and the number placed on the vehicle was bearing BR01FQ0101. Learned counsel has relied upon a Division Bench Judgment of this Court in the case of **Bittu Kumar Gupta v. the State of Bihar and Ors. (C.W.J.C. No. 13174 of 2025)**, decided on 14.11.2025, wherein this Hon'ble Court has taken a view that in case of a stolen vehicle, where the vehicle owner has not played any role in commission of any offence and is not an accused, he cannot be burdened with the penalty.

4. Learned GP-6 for the State submits that since the vehicle in question had been found carrying approximately 198.720 liter of liquor, the confiscating authority has taken a view based on a decision of this court in the case of **Ramprakash Paswan Vs. The State of Bihar and Others (CWJC No. 11678 of 2022)** decided on 02.09.2022 and directed imposition of penalty of 10% of the insured value of the vehicle. Learned GP-6, however, accepts at the bar that the competent authority has no power to impose an additional 3% over and above the penalty amount. In her

submissions, the impugned order, insofar as it directs payment of 3% over and above the penalty amount, may be set aside. However, the rest of the order be allowed to remain.

Consideration

5. Having heard learned counsel for the petitioner and learned GP-6 for the state, we have gone through the impugned orders. In the revisional order dated 18.09.2025, the revisional authority has categorically observed that on perusal of the F.I.R of Shastri Nagar P.S Case No. 788 of 2024, it is evident that the vehicle in question was stolen away.

6. The revisional authority has also observed that in the said case, there is no involvement of the petitioner, but having said so, he has refused to interfere with the order passed by the competent authority and the appellate authority on the ground that it cannot be denied that the vehicle was being used in transportation of illicit liquor.

7. To this Court, it appears that the fact that the vehicle in question was a stolen vehicle and a false number plate was found placed on that when it was intercepted and liquors were found on the same are important facts which cannot be ignored. The vehicle is the property of its owner and a confiscation proceeding being essentially in the nature

of a civil proceeding, the owner of the vehicle may be deprived of his property only if it is found that he is involved in the commission of the offence with the help of the said vehicle. In fact, in the case of **Amarjeet Yadav v. State of Bihar and Others (C.W.J.C. No. 9517 of 2023)**, a learned coordinate Bench of this court has observed in paragraph 24 of its judgment as under:-

> 24. Similarly, there may be a situation where a vehicle has been stolen or robed by criminal to carry intoxicant or liquor. In such situation also, it cannot be contended that there was involvement or connivance of the owner in commission of the offence under the Act. For such illegal use of the vehicle, the owner of the vehicle cannot be punished by seizure and confiscation of the vehicle.

8. So far as the reliance placed by the respondent authorities on the judgment of this court in the case of **Ramprakash Paswan** (supra) is concerned, it is evident that after the said judgment, the Bihar Prohibition and Excise Rules 2021 has been lastly amended vide Amendment Rules 2023 vide notification no. 3671 dated 31.05.2023. The amended provision under Sub-Rule 4 of Rule 12A provides some guidelines whereunder it is provided that 'Where the

conveyance is such that its valuation/insurance is not possible, the Collector or the officer authorized by him shall impose such fine as he deems fit. While imposing such fine, the Collector or the officer authorized by him shall have due regard to the economic status of the individual, nature of his involvement in the crime and the quantum of intoxicant recovered'.

9. This court has no iota of doubt that the mandate as contained in the second part of sub-rule (4) of Rule 12A which provides for consideration of the economic status of the individual and the nature of his involvement in the crime and the quantum of intoxicant recovered are some of the factors which would be required to be considered for purpose of imposing the penalty. Whether it is based on the valuation done by a valuer on the order of the Collector or it is based on the insurance value is immaterial. The factors for consideration remain the same. The nature of involvement of the vehicle owner being an important guiding factor cannot be ignored by the confiscating authority.

10. We, therefore, find that at the time of the judgment, in the case of **Ramprakash Paswan** (supra), this statutory provision was either not in existence or was not

pointed out to this court.

11. In a result, we set aside the impugned orders and direct the confiscating authority to pass a fresh order within a period of 30 days from the date of receipt of copy of this order for release of the vehicle in question, keeping in view the aforementioned mandate of law and the judicial pronouncements on the subject.

12. It is made clear that the confiscating authority has no power to impose an additional 3% over and above the penalty amount. It is surprising that the confiscating authority has directed the petitioner to deposit 3% of the penalty amount, i.e., Rs. 5,698/- in the account of 'BSBCL', which we understand as Bihar State Beverages Corporation Ltd. By no stretch of imagination, the confiscating authority can assume upon himself a power to impose penalty over and above what has been sanctioned by the law. Recently, we have noticed similar kind of order passed by the confiscating authority in the district of Nalanda in the case of **Shantanu Kumar v. The State of Bihar & Ors. (C.W.J.C. No. 18561 of 2025)** decided on 11.12.2025. Such imposition are wholly unjust and improper. This is an act of undue enrichment caused to a government company, which is not permissible.

13. Let this order be brought to the notice of all the District Magistrates in the State of Bihar and the officers authorized by them who are dealing with the confiscating matters not to impose an additional amount of penalty over and above the penalty amount. Such penalties realized by the confiscating authority in all other cases are liable to be refunded within a period of 3 months from the date of receipt/production of the copy of this order.

14. The writ petition stands disposed of.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

aditya/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	19.12.2025.
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