

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19836 of 2025

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Nawal Kishor Singh @ Naval Kishor Singh Son of Pundev Singh, Resident of Village- Kudiya, Kundia P.O.- Damodarpur, Police Station - Pipara, District-East Champaran (Motihari).

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Department of Prohibition, Excise and Registration, Bihar, Patna.
2. The Excise Commissioner, Excise Department, Bihar, Patna.
3. The Collector-cum-District Magistrate, Gopalganj.
4. The Superintendent of Police, Gopalganj.
5. The Excise Superintendent, Gopalganj.
6. The S.D.M./S.D.O., Gopalganj.
7. The Officer-in-Charge/S.H.O. Kuchaykot Police Station, District-Gopalganj.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Arbind Kumar Singh, Advocate
For the State	:	Mr. Jitendra Kumar, AC to GP-16

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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 : 24-12-2025

Heard learned counsel for the petitioner and learned AC to GP-16 for the State of Bihar.

2. The petitioner in the present case is seeking to challenge the order of confiscation, the appellate order and the revisional order passed by the competent authorities as contained in Annexures '4', '5' and '6' respectively whereby and whereunder the authorities have refused to release the vehicle of the petitioner



on the ground that the vehicle was carrying more than 10 litres of liquors.

3. The basic order dated 07.06.2024 passed by the Sub-Divisional Magistrate, Gopalganj in Sub-Division Confiscation (Excise) Case No. 420 of 2024 takes note of Memo No. 2853/Excise dated 12.09.2022 whereby and whereunder in a review meeting, the District Magistrate, Gopalganj issued a direction that a two-wheeler carrying more than five litres and a four-wheeler carrying more than ten litres of liquor shall not be released on payment of penalty.

4. The views expressed by the Sub-Divisional Magistrate, Gopalganj in the order of confiscation have not been interfered with by the Appellate Authority and the Revisional Authority.

5. We had occasion to consider an identical matter in which we have taken a view that the guidelines issued by the District Magistrate, Gopalganj that a four-wheeler carrying more than ten litres of liquor would not be released on payment of penalty, would be in the teeth of the Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (as amended up to date) (hereinafter referred to as the 'Rules of 2021 (as amended up to date)'). We have also taken a view that refusal to release a vehicle



only on this ground would not be in the spirit of Rule 12A of the Rules of 2021 (as amended up to date) which was incorporated in the statute book with an intention to release the vehicles which were found transporting liquors and unless an issue of public interest is involved, the release of vehicle should not be refused.

6. Reference in this regard may be made to the judgment of this Court in the case of **Manjeet Kumar Yadav Vs. The State of Bihar & Ors. (C.W.J.C. No. 10126 of 2025)**. Paragraphs ‘11’, ‘12’ and ‘13’ of the said judgment are being reproduced hereunder for a ready reference:-

“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.



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’.

13. If the competent authority starts rejecting an application for release of the vehicle even if it is found involved in the transportation of liquor for the first time, only by taking note of the quantum of liquor, it would act as a stumbling block in implementation of the scheme of Rule 12A, that would, in fact, frustrate the mandate of law. The word ‘public interest’ as occurring under sub-rule (3) of Rule 12A cannot be given a rigid meaning, it has to be construed in the context of the scheme of the statute and it must take its colour from the statute in which it occurs.”

7. We have noticed that the Appellate Authority and the Revisional Authority have recorded some observations and opinion on surmises and conjectures saying that the involvement of the petitioner in transportation of illicit liquors cannot be ruled



out. Such observations at this stage have no place for consideration.

8. Having regard to the aforesaid view of the matter, we set aside the impugned orders and direct the Sub-Divisional Magistrate, Gopalganj to consider the request of the petitioner afresh for release of the vehicle on payment of penalty in terms of Rule 12A of the Rules of 2021 (as amended up to date). Such a decision shall be taken by the Sub-Divisional Magistrate, Gopalganj within a period of one month from the date of receipt/production of a copy of this order.

9. This writ application stands allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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CAV DATE	
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