

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No. 618 of 2026**

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Dhanu Paswan Son of Arjun Paswan, Resident of Village-Kori, P.S.-Dinara,  
District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration and Bihar Prohibition and Excise Department, Government of Bihar, Patna.
2. The District Magistrate cum Excise Confiscating Authority, Rohtas at Sasaram.
3. The Superintendent of Police, Rohtas at Sasaram.
4. The Assistant Commissioner of Excise Prohibition Department, Sasaram, Rohtas.
5. The Inspector, Excise Prohibition P.S. Bikaramganj, Sasaram.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Babu Nandan Prasad, Advocate  
For the Respondent/s : Mr. Rajeshwar Singh, GA-10  
Mr. Jitendra Kumar, AC to GA-10

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**

**and**

**HONOURABLE MR. JUSTICE ARUN KUMAR JHA**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)**

**Date: 16-03-2026**

At the outset learned counsel for the petitioner seeks permission to delete prayer no. 1(i) during the course of the day. Permission so sought is granted. Let the needful be done during the course of the day.

02. The present writ petition has been filed for directing the respondents to release the TVS motorcycle of the petitioner



bearing Registration No. BR-24AQ-7497.

03. The present case arises out of an FIR bearing Bikramganj (Prohibition and Excise) P.S. Case No. 217 of 2025 dated 18.09.2025, registered under Section 30(a) of the Bihar Prohibition and Excise (Amendment) Act, 2018 (hereinafter referred to as the 'Act, 2018'), against Krishna Kumar, Mannu Kumar and Santosh Kumar Chandravanshi, a bare perusal whereof would show that on 18.09.2025 at about 6.20 PM, while two persons, namely Krishna Kumar and Mannu Kumar were riding the motorcycle of the petitioner, the same was intercepted by the police personnel and upon search 1.5 liters of illicit country made liquor was recovered, leading to registration of the aforesaid FIR in question and seizure of the motorcycle of the petitioner.

04. The learned counsel for the petitioner submits that Mannu Kumar is younger brother of the petitioner and in fact the motorcycle in question belongs to the petitioner. It is further submitted that considering the fact that the petitioner is not named in the FIR, he has not been shown to be having any complicity in the alleged occurrence and the quantity of illicit liquor recovered from the motorcycle in question is meager, the motorcycle in question be released in favour of the petitioner



upon payment of reasonable amount of penalty.

05. *Per contra*, the learned counsel for the State-respondents submits that the confiscation proceedings have already been initiated, however it has not been denied that the petitioner is not an accused in the aforesaid FIR in question and no material has been brought on record, in the counter affidavit to show that the petitioner is having any complicity in the alleged occurrence.

06. We have heard the learned counsel for the parties and perused the materials on record. At this juncture, we would like to reproduce Rule 12A (2) of Bihar Prohibition and Excise (Amendment) Rules, 2023 (hereinafter referred to as the 'Rules, 2023') herein below:-

***"Rule 12A (Release of Vehicles, Conveyance etc. on Payment of Penalty):-***

*"(2) The amount of penalty shall be as decided by the Collector or the Officer authorized by him. While imposing the penalty, he shall have due regard to the quantity of intoxicant recovered, involvement of the vehicle owner and the latest insurance value of the vehicle. In no case, the penalty should be less than 10% of the insured value of the vehicle and more than Rs. 5 lakhs. The insured value is the value of the vehicle as assessed by the insurance company. Where, the insured value is not available or the Collector or the Officer authorized by him has reason to believe that the vehicle is undervalued, he shall get the valuation done by the District Transport Officer.*



*In any case, the Collector shall not wait beyond 15 days from the date of seizure and if during this period, the accused/owner does not pay up the penalty, he shall proceed with the confiscation/auction."*

07. A bare perusal of Rule 12A(2) of the Rules, 2023 would show that while imposing penalty, the quantity of intoxicant recovered is also required to be considered. Nonetheless, at this juncture we would like to refer to an order dated 26.11.2025, passed by a coordinate Bench of this Court in **CWJC No. 14928 of 2025 (Rakesh Kumar Singh vs. the State of Bihar & Ors.)**, wherein it has been held as under:-

*"In absence of any specific ground that the vehicle was in regular use for transportation of liquors or that the owner of the vehicle was found involved in transportation of the liquors and/or there was multiple cases of similar nature against the owner or the vehicle, imposition of the penalty to the extent of 75 per cent of the insured value is an onerous condition and it amounts to virtually creating a situation where huge hardship may be caused to an owner of the vehicle in getting release of the vehicle.*

08. Yet another aspect of the matter is that Rule 12A (4) of the Bihar Prohibition and Excise (Amendment) Rules, 2022 provides that while imposing 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.

09. Having considered the facts and circumstances of the



case as also taking into account the fact that meager quantity of 1.5 liters of illicit liquor has been recovered, no material has been brought on record, in the counter affidavit filed by the respondents, to show that either the petitioner/his vehicle was regularly involved in transportation of illicit liquor or the petitioner is involved in multiple cases of similar nature, which are also the factors required to be considered while imposing penalty for release of the vehicle, as has been provided under Rule 12A(2) of the Rules, 2023 and Rule 12A(4) of the Rules, 2022 apart from the fact that the petitioner is not an accused in the aforesaid FIR and no material has been brought on record to show that the petitioner is having any complicity in the alleged occurrence, we are of the considered view that it would be in the interest of justice and equitable, if the petitioner is directed to pay a sum of Rs. 2,000/- by way of penalty for the purposes of release of the motorcycle in question.

10. At this juncture, the learned counsel for the petitioner submits that the petitioner would be depositing a sum of Rs. 2,000/- within a period of three weeks from today and shall make available the documents of ownership of the motorcycle in question before the competent authority.

11. It is needless to state that the present order has been



passed by us while invoking the extraordinary jurisdiction under Article 226 of the Constitution of India for the reason that unnecessarily the petitioner shall be liable to be subjected to various proceedings like the one under Rule 12A of the Rules, 2023, Section 57B, 58, 92 and 93 of the Bihar Prohibition and Excise Act, 2016, as amended upto date, for a meager recovery of 1.5 liters of illicit liquor, as also with a view to avoid and prevent multiplicity of proceedings, in the interest of justice.

12. Accordingly, the present writ petition stands disposed of on the aforesaid terms.

**(Mohit Kumar Shah, J)**

**(Arun Kumar Jha, J)**

DKS/-

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