

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3438 of 2026

Ashok Kumar Mishra Son of Mandev Mishra, Resident of Village Bareja Farusahi, P.S. Daudpur, District Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through Addl. Chief Secretary, Bihar Prohibition and Excise Department, Govt. of Bihar, Patna.
2. The Excise Commissioner, Bihar Prohibition and Excise Department, Govt. of Bihar, Patna.
3. The District Magistrate cum Collector, Saran, Chapra.
4. The Superintendent of Police, Saran, Chapra.
5. The Excise Superintendent, Saran, Chapra.
6. The Sub-Divisional Police, Officer, Saran, Chapra.
7. The Station House Officer, Daudpur Police Station, District Saran, Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Binod Kumar Sinha, Advocate Dr. Suresh Prasad Yadav, Advocate
For the Respondent/s	:	Mr.Gautam Kumar Yadav, AC to GP-26

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE KUMAR MANISH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 18-06-2026 Heard learned counsel for the petitioner and the State.

2. Petitioner in the present case is seeking the following

reliefs:-

"(1) That this application is being filed for issuance of writ in the nature of mandamus commanding the respondents to release the vehicle Splendor motorcycle bearing Reg. No.BR04AR 8239 in favour of petitioner which was seized in the FIR bearing Daudpur P.S. Case No.40/2025 instituted under Section 30(a) of Bihar Prohibition and Excise Act



2022 for recovery of 73 liters illicit country made liquor and any other appropriate writ, order save and except in accordance with law."

3. It is the case of the petitioner that he is owner of Splendor motorcycle bearing Reg. No.BR04AR8239. Annexure-'P/1' is the documents of Registration Certificate, Tax Invoice and Insurance Policy. It is stated that on 16.02.2025, the petitioner's son Sanjeet Mishra parked the said motorcycle and was going to market outside the house, then the police came and arrested Sanjeet Mishra with the aforesaid motorcycle by showing recovery of 73 liters of country made liquor from outside the house and instituted FIR bearing Daudpur P.S. Case No.40/2025 dated 16.02.2025 under Section 30(a) of the Bihar Prohibition and Excise Amendment Act, 2022 (As Amended Uptodate).

4. From the counter affidavit filed on behalf of the respondent no.4 sworn by S.D.P.O., Sonpur, Saran and the copy of the seizure list which are available on the record, it is noticed that in the seizure list the recovery of liquor has been shown from village-Bareja. The seizure list does not mention the actual place or the house from which the liquors were seized. In any case, it is an admitted position that the motorcycle bearing Reg. No.BR04AR8239 was not carrying any liquor. It is stated that during verification of the information at the place of occurrence a person tried to escape on a motorcycle but he was successfully



arrested by police and the motorcycle was seized. It is specifically stated that no alcohol was recovered from the concerned motorcycle.

5. Learned counsel for the petitioner points out that on perusal of the case diary, seizure list and direction issued by the Circle Officer, Ekma, Saran, it appears that the exact spot of seizure of illicit alcohol has not been clearly stated and there was no recovery from the seized motorcycle, therefore, the proposal for initiation of confiscation proceeding submitted by the I.O. vide memo no.784/2025 dated 18.03.2025 before the District Magistrate, Saran was contrary to law. The steps have been taken for initiation of disciplinary proceeding against the informant of this case, ASI Ashok Tirki, the I.O. of the case, ASI Santosh Kumar both of Daudpur police station and Sri Birendra Kumar Singh, Circle Inspector, Ekma, Saran.

6. It is evident on going through the stand taken by the respondents that the motorcycle in question could not have been seized in connection with the present case because there was no recovery of liquor from the motorcycle. It is also evident that the police wrongly recommended for initiation of a confiscation case against the vehicle of the petitioner. Since action in administrative side has already been initiated against those police officers, this Court is not passing any order at this stage but directs the



competent authority to ensure that the proceeding initiated in the administrative side against the erring officials must reach to a logical end within a reasonable time.

7. We grant liberty to the petitioner to file an appropriate application under Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (As Amended Uptodate) before the competent authority for release of the vehicle in question. The competent authority shall consider the application and pass an appropriate order for release of the vehicle . Since there was no liquor and the confiscation case itself is said to have been wrongly initiated, no penalty shall be imposed upon the petitioner. The order for release of the vehicle must be passed within two weeks from the date of receipt/production of a copy of this order.

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

(Rajeev Ranjan Prasad, J)

(Kumar Manish, J)

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