

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 3167 of 2026

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Rahul Raj Kumar @ Rahul Raj, Son of Brijeshwar Ram @ Brajeshwar Ray,
Resident of Village- Bhadwas, P.S. Mahua, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Prohibition and Excise Department, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The District Magistrate, Nalanda.
4. The Additional Collector cum Additional District Magistrate, Nalanda.
5. The Superintendent of Police, Nalanda.
6. The Officer in-Charge, P.S. Bihar, District Nalanda.

... .. Respondent/s

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Appearance:

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate Ms. Rashmi Kumari, Advocate Ms. Damini, Advocate Mr. Vishnu Manjali, Advocate
For the State	:	Mr. Sita Ram Yadav, GP 16 Mr. Rakesh Kumar Shrivastava, AC to GP 16

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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

The present writ petition has been filed for setting aside the order dated 30.08.2025, passed by the learned Additional Collector-cum-Additional District Magistrate, Nalanda in Confiscation (Excise) Case No.145 of 2025, in connection with Biharsharif P.S. Case No. 159 of 2025 dated 12.03.2025, registered under Sections 30(a), 41 and 56 of the Bihar Prohibition and



Excise (Amendment) Act, 2022 (hereinafter referred to as the 'Act, 2022'). The petitioner has prayed for quashing of the appellate order dated 24.12.2025, passed by the learned Excise Commissioner, Bihar in Excise Appeal Case No.195 of 2025 as also release his Alto car bearing registration No. BR 01 PK 7909, Chassis No. MA3EUA61S00F16890, Engine No. F8DN6268612 in his favour without being asked to deposit any penalty.

2. The brief facts of the case are that while the Sub-Inspector of Police, Bihar Police station along with armed force had left for patrolling duty on 11.03.2025 at about 22:00 hours and were checking vehicles on 12.03.2025 at about 3:30 am, one white colour Alto car was seen coming from the side of Nakatpura bearing registration No. BR 01 PK 7909, which was stopped by the patrolling party and it was found that apart from the driver four persons were sitting in the said vehicle whereafter, upon search being made, 1.485 liters of foreign liquor and 555 ml of country made liquor was recovered from the passengers, however admittedly no illicit liquor was recovered from the driver of the vehicle. The said occurrence had led to filing of the aforesaid FIR bearing Bihar Sharif P.S. Case No.159 of 2025.

3. The learned counsel for the petitioner submits that the petitioner had filed an application for release of the vehicle under



Section 12A (2) of the Bihar Prohibition and Excise (Amendment) Rules, 2023 (hereinafter referred to as the 'Rules, 2023'), however the learned court of Additional Collector-cum-Additional District Magistrate, Nalanda by an order dated 30.08.2025 has directed to release the vehicle upon payment of penalty to the tune of Rs. 1,45,000/- as also payment of 3% charge on the head of security and maintenance of the vehicle in question, totaling to a sum of Rs. 4350/-. The petitioner had challenged the said order dated 30.08.2025 by filing an appeal bearing Excise Appeal Case No. 195 of 2025, however the learned Commissioner, Bihar Patna, by an order dated 24.12.2025, while holding that the learned counsel for the petitioner has not been able to produce any proof regarding the vehicle in question not being used for transporting illicit liquor, has directed for release of the vehicle upon payment of 25% of the newest insurance value of the vehicle in question and as to the said extent set aside the order dt. 30.8.2025, passed by the Ld. Additional Collector-cum-Additional District Magistrate, Nalanda.

4. The learned counsel for the petitioner submits that admittedly, the petitioner is the driver of Ola vehicle and during the ordinary course of his business, the said car was booked by passengers and while he was transporting four passengers in the said car, the police patrolling party had apprehended the car and



upon search, illicit liquor, as aforesaid, was recovered from one of the said four passengers from the front seat. Thus, it is submitted that admittedly, neither the petitioner is having any role in ferrying of the said illicit liquor nor his car was being used to illegally transport illicit liquor. Thus, it is submitted that a lenient view be taken and the vehicle of the petitioner be released.

5. *Per contra*, the learned counsel for the respondent-State has though opposed the prayer of the petitioner for release of the vehicle upon payment of penalty, however he has not been able to show from the records that the petitioner is having any complicity in the matter, much less his vehicle is regularly involved in transportation of illicit liquor or the petitioner is involved in other cases of similar nature.

6. We have heard the Ld. counsel for the parties and we find from the records as also from the contents of the aforesaid FIR that admittedly the petitioner is the driver of an Ola vehicle and he was driving the same at the time it was apprehended by the police, whereupon search was made and illicit liquor, as aforesaid was recovered from the passenger sitting in the front seat, however no illicit liquor was recovered from the driver of the said vehicle.

7. At this juncture, we may refer to the law laid down by a Co-ordinate Bench of this Court in the case of ***Sunaina vs. State***



of Bihar & Ors., reported in **2024 SCC Online Pat 851** and the Judgment dt. 18.11.2025 passed in the case of *Ali Ashraf Siddique vs. The State of Bihar & Ors. (CWJC No.16421 of 2025)*, wherein it has been held that if the involvement of the owner of the vehicle is not there in commission of the alleged offence of transportation of illicit liquor and in such illegal use of the vehicle, the vehicle cannot be subjected to confiscation proceedings. In this regard, we may gainfully refer to paragraph Nos. 20 to 30 of the judgment rendered by a Co-ordinate Bench of this Court in the case of *Sunaina (supra)* which are reproduced herein below:-

“20. The first and foremost thing, which emerges from the aforesaid discussion of the statutory provisions, is that no vehicle can be seized or confiscated without its use in commission of any offence under the Bihar Prohibition and Excise Act, 2016. Under Section 30 of the Act, transport of illicit liquor or intoxicant is an offence and in commission of such offence, a vehicle can be used. As such, use of the vehicle in transport of illicit liquor/ intoxicant is sine qua non for its seizure and confiscation. It also emerges that just use of the vehicle to carry intoxicant or liquor is also not sufficient for its seizure and confiscation. The involvement or connivance of the owner of the vehicle in such illegal use of the vehicle is also an essential prerequisite for confiscation of the vehicle or imposing any penalty for release of the vehicle. Such view has been consistently expressed by this Court in various judicial pronouncements under writ jurisdiction.

21. It has been held by this Court in Mohammad Basim Akram v. State of Bihar [2022 (6) BLJ 540] that when the driver of a vehicle is found to be carrying some quantity of intoxicant or liquor in the vehicle for his personal



consumption without any knowledge of the owner of the vehicle, such vehicle cannot be construed of having indulged in transportation of illicit liquor. The facts of the case was that 8.8 litre illicit liquor was recovered from the cabin of the driver and driver had confessed that he had purchased the contraband for his personal consumption and kept in the cabin.

*22. There is also a possibility of situation where driver of a motorcycle or car or other vehicles may be carrying small quantity of contraband in his clothes like in pocket of shirt or pant. In such situation also, it would be completely erroneous to hold that vehicle was being used for carrying the contraband. Hon'ble High Court of Kerala in Wilson C.C. v. State of Kerala [2022 LiveLaw (Ker) 627] has expressed similar view. In that case, a person was driving a vehicle and 0.06 grams of LSD Stamp was recovered from wallet kept in his pocket. **Hon'ble Kerala High Court** held that it could not be said that the vehicle was used for conveyance of the contraband and the vehicle is subject to confiscation. In Thausif Ahammad Bengre v. State of Kerala [2018 SCC OnLine Ker 3905] the vehicle was being driven by the driver and 40 grams Ganja was recovered from his possession. In that situation, Hon'ble Kerala High Court held that it is really fallacious to contend that the vehicle was used for carrying the contraband.*

23. It is relevant to point out that in case of direct involvement of the owner of the vehicle in prohibited use of the vehicle, he is made accused in the criminal case registered by the police. Even in case of his indirect involvement by way of permission for or connivance in use of his vehicle in commission of the offence, he is liable to be accused U/s. 47 of the Act. As such, unless the owner of the vehicle is an accused in the case, the court cannot hold that the owner of the vehicle is directly or indirectly involved in the prohibited use of the vehicle.

24. It is also pertinent to note that in the light of various pronouncements of this Court, Bihar Government has issued letter dt. 7.2.2020 bearing Letter No. 13/HC- 06-



55/2020-670. The letter has been written by Additional Chief Secretary, Home Department cum Prohibition, Excise and Registration Department to all District Collectors, Police Officers and Excise Officers. By this letter, the Government has clearly stated in para-2 of the letter that as per direction of this Court, such vehicle, from which no liquor has been recovered, will not be confiscated. In para-3 of the letter, the Govt. has stated that when the vehicle was being driven by the driver in drunken condition but no liquor has been recovered from the vehicle, only the driver would be prosecuted under the Bihar Prohibition & Excise Act, 2016.

25. Coming to the case at hand we find that on 17.09.2020, the accused Satyendra Kumar and Sunil Yadav were allegedly riding the motorcycle in question and on search 13.9 liter illicit liquor was seized/recovered from the bag kept by the pillion rider, Sunil Yadav in his hand. There is no allegation, as emerging from the FIR, that the contraband was kept/concealed in any part of the motorcycle in question to carry it. In such situation, it would be erroneous to hold that the motorcycle was used to carry the contraband. The word "use" cannot be interpreted liberally giving expansive meaning. It has to be interpreted strictly as it has penal consequences. Even the object and scheme of the Bihar Prohibition and Excise Act does not warrant expansive interpretation. At most, the persons who were found in illegal possession of the contraband may be prosecuted for offence as committed under the Act.

26. We also find that against the petitioner/owner of the vehicle there is no allegation of her direct or indirect involvement in commission of the alleged offence. That is why she has not been made accused in the criminal case registered by the police.

27. In view of the aforesaid facts and circumstances of the case, we find that the twin prerequisites for seizure and confiscation of a vehicle under the Bihar Prohibition and Excise Act, 2016 - use of the vehicle in carrying/transporting the liquor or intoxicant and the consent or



connivance of the owner of the vehicle in commission of the offence-are not fulfilled. Consequently the vehicle in question is not liable to be seized and confiscated under the Act.

28. Hence, the impugned order is arbitrary and hit by Article 14 of the Constitution. It is also violative of Constitutional right of the petitioner to hold property as provided in Article 300 A of the Constitution, which prohibits any deprivation of property without authority of law. The Bihar Prohibition and Excise Act no way authorises the official to seize or confiscate the motorcycle in the alleged facts and circumstances of the case. Hence, the seizure & confiscation of the motorcycle in question is without any authority of law. The confiscation order, is accordingly liable to be quashed. The petitioner, whose constitutional right to property has been violated, is entitled to adequate compensation. He is also entitled to compensation on account of expenditure and harassment in course of forced litigations.

*29. Hence, the impugned order dated 19.11.2021 passed by District Collector, Gopalganj in Confiscation (Excise) Case No. 700/2020 is quashed. The District Collector, Gopalganj is also directed to release the motorcycle in question forthwith. He is further directed to pay Rs. 1,00,000/- (Rupees One Lac) to the Petitioner towards compensation. The payment of the compensation must be made within **ten days** of the receipt of the order.*

30. The petition is allowed, accordingly”

8. We find from the law laid down in the case of **Sunaina** (*supra*), that involvement or connivance of the owner of the vehicle in illegal use of the vehicle for ferrying illicit liquor is an essential prerequisite for confiscation of the vehicle or imposing any penalty for release of the vehicle. As far as the present case is concerned, admittedly neither the illicit liquor was recovered from



the driver of the said Alto car nor the illicit liquor has been recovered from the vehicle in question, however the same has been recovered from the passenger sitting in the front seat. Hence, neither the driver is in any way involved in commission of the alleged offence nor there is any material to show that the vehicle was being illegally used for ferrying illicit liquor, which is an essential prerequisite for confiscation of the vehicle or imposing any penalty for release of the vehicle. Therefore, we are of the opinion that the impugned orders dated 30.8.2025 and 24.12.2025, passed by the Ld. Additional Collector-cum-Additional District Magistrate, Nalanda and learned Excise Commissioner, Bihar respectively, have not only failed to consider the aforesaid aspect of the matter but are also in the teeth of the law laid down by a Co-ordinate Bench of this Court in the case of ***Sunaina*** (*supra*), hence are perverse and illegal.

9. Having regard to the facts and circumstances of the case and for the foregoing reasons, the impugned orders dated 30.8.2025 and 24.12.2025, passed by the Ld. Additional Collector-cum-Additional District Magistrate, Nalanda and learned Excise Commissioner, Bihar respectively, are set aside.

10. Consequently, we direct the competent authority to release the Alto vehicle of the petitioner without levying any



penalty within a period of two weeks of the date of receipt/
communication of a copy of this order.

11. Accordingly, the present writ petition stands allowed.

(Mohit Kumar Shah, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	25.03.2026
Transmission Date	NA

