

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1957 of 2025

Arising Out of PS. Case No.-29 Year-2025 Thana- SALAKHUA District- Saharsa

Virendra Sah @ Birendra Sah, S/o- Sakal Sah, R/o Villegge-Manori
(Sonbarsaraj), Ward No- 13, P.S-Sonbarsaraj, District-Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Prohibition, Excise Registration Dept., Bihar Bihar
2. The Principal Secretary, Prohibition, Excise Registration Dept. Govt.of Bihar, Patna Bihar
3. The Collector, Saharsa, Dist- Saharsa Bihar
4. The Superintendent of Police, Saharsa Bihar
5. The Superintendent of Excise, Saharsa Bihar
6. The S.I Salkhua, Saharsa Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr.Pawan Kumar, Advocate
For the Respondent/s	:	Mr. Ramadhar Singh, GP-25

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 09-01-2026

Heard learned senior counsel for the petitioner and
learned counsel for the State.

2. The present writ application has been filed seeking
following reliefs :-

*“(i). For direction the Respondents
Authorities to release the Mahindra Scorpio S3
vehicle in question bearing Registration no. BR-
11PB-8287, Chassis No.MA1TA2TDKK2G19695,
Engine No. TDK4G81690 in favour of petitioner
which was illegally seized by the police in Salkhua
P.S. Case No.29/2025 on 15.02.2025.*



(ii). For direction the Respondents Authorities not to take any coercive action against the said Scorpio vehicle during pendency of the present writ application.

(iii). For any other appropriate relief/reliefs for which the petitioner is entitled in the facts and circumstances of the present case.

3. The learned senior counsel appearing on behalf of the petitioner submits that Salkhua P.S. Case No. 29 of 2025 has been registered under Sections 126(2), 115(2), 221, 132, 324(6), 109(1), 3(5) of BNS and Section 45 of Bihar Prohibition and Excise Amendment Act, 2022 with allegation that the vehicle of the petitioner was also involved in commission of the offence under the Excise Act as well as under the provisions of BNS. The learned senior counsel further submits that there has not been recovery of any illicit liquor from the vehicle and the allegation against the vehicle, that it was used to obstruct the police officials in apprehending the vehicle loaded with the illicit liquor, is not supported with any other material. The learned senior counsel further submits that no confiscation proceeding has been started in this case till date. The Hon'ble Supreme Court in a number of cases has held that keeping the vehicle in police station and allow it rot in open results in national loss of resources. The petitioner is ready to furnish



adequate security for release of his vehicle and the vehicle may be released in favour of the petitioner.

4. The learned counsel appearing on behalf of the State respondent vehemently opposes the submission made on behalf of the petitioner. The learned counsel for the State submits that the vehicle of the petitioner was apprehended while it obstructed the police officials in intercepting the vehicle which was loaded with the illicit liquor. Thus, the offence under Section 45 of Excise Act has been committed apart from other offences under the provisions of BNS.

5. Since the petitioner has approached this Court with prayer to release his vehicle, hence, without going into merits of the rival submission of the parties and having regard to the guidelines issued by the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat, (2002)10 SCC 283***, I am of the view that the release of the vehicle could be ordered, with the undertaking from the petitioner and furnishing adequate security on behalf of the petitioner, to stop further damage and wastage of the resources.

6. The Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai*** (supra) has observed the following:

“In our view, the powers under Section 451, Cr.P.C. should be exercised expeditiously and judiciously. It would serve various purposes,



namely:-

- 1. Owner of the article would not suffer because of its remaining unused or by its misappropriation;*
- 2. Court or the police would not be required to keep the article in safe custody;*
- 3. If the proper panchnama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and*
- 4. This jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.”*

While dealing with the seized vehicles from time to time by the police either in commission of various offences or abandoned vehicles or vehicles which are recovered during investigation of complaint of thefts, the Hon’ble Supreme Court in the case of ***Sunderbhai Ambalal Desai*** (supra) further observed as under:-

“In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third



person. If Insurance company fails to take possession, the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.”

7. Therefore, the Mahindra Scorpio S3 vehicle of the petitioner bearing Registration no. BR-11PB-8287, Chassis No.MA1TA2TDKK2G19695, Engine No. TDK4G81690, seized in connection with Salkhua P.S. Case No. 29 of 2025, is directed to be released in favour of the petitioner/registered owner subject to the satisfaction and the conditions to be imposed by the learned trial court, within a period of one month from the date of receipt/production of a copy of this order.

8. Accordingly, the present petition is allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.01.2026
Transmission Date	09.01.2026

