IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 20955 of 2025

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Paras Kumar Son Of Ram Daresh Rai, Resident Of Village- Gohi Tara, Bishunpur, P.S.- Warisnagar, District- Samastipur, Pin Code- 848133 (Bihar).

... ... Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Registration, Excise and Prohibition Department, Government Of Bihar, Patna.
2. The Principal Secretary, Registration, Excise and Prohibition Department, Government Of Bihar, Patna
3. The Excise Additional Chief Secretary, Registration, Excise and Prohibition Department, Government Of Bihar, Patna.
4. The District Magistrate, Samastipur, District- Samastipur (Bihar).
5. The Senior Deputy Collector, Samastipur, District Samastipur (Bihar).
6. The Superintendent Of Excise, Samastipur, District Samastipur (Bihar)
7. The Superintendent Of Police, Samastipur, District Samastipur (Bihar).
8. The Station House Officer, Kalyanpur Police Station, Samastipur, District Samastipur (Bihar).
9. The Investigating Officer Of Kalyanpur Police Station Case No. 03 Of 2023, District Samastipur (Bihar).

... ... Respondent/s

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Appearance:

For the Petitioner/s	:	Ms. Anu Priyadarshni, Advocate
For the Respondent/s	:	Mr. Government Pleader (24)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 16-02-2026

The present writ petition has been filed for directing the respondent-authorities to release the Tata Motors Yodha 1200 Pick-up vehicle bearing Registration No. BR33GB-1966, Engine No. VARICOR12JZXJ05377, Chassis No. MAT464663 LSJ05526 seized in connection with Kalyanpur P.S. Case No. 03 of 2023. The Petitioner has also prayed for quashing of the order dt. 09.9.2025 passed by the Ld. Presiding Officer (Excise)- cum-Senior Deputy Collector, Samastipur in Confiscation (Excise) Case No. 15 of 2023-24 whereby and whereunder it has been directed that the petitioner shall deposit 50% of the assessed market value of the vehicle in question, to be assessed by the Motor Vehicle Inspector, Samastipur as also pay 3% amount as maintenance cost for the purposes of release of the vehicle in question.

2. The brief facts of the case are that Kalyanpur P.S. Case No. 03 of 2023 dated 04.01.2023 was registered under Sections 30(a), 32(2), 32(3), 36 and 41(1) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act, 2016') and under Sections 420, 471 and 120-B of the Indian Penal Code against the petitioner and others on account of recovery of 1.125 liters of illicit liquor from the aforesaid vehicle in question.

3. The learned counsel for the petitioner submits that meager quantity of 1.125 liters of illicit liquor has been recovered from the vehicle in question, however a bare perusal of the order dated 09.09.2025 would show that excessive penalty

has been imposed, thus the same defeats the provisions as contained in the Act, 2016 for release of the vehicle in question. It is submitted that the vehicle was found carrying 1.125 liters of illicit liquor which is not a huge quantity, hence a sympathetic view be taken and the amount assessed as penalty be reduced.

4. *Per contra*, the learned counsel for the respondent-State has submitted that the petitioner was caught along with the vehicle in question on account of carrying 1.125 liters of illicit liquor, hence the vehicle in question has rightly been seized as also appropriate penalty for release of the same has been levied by the competent authority which in any view of the matter cannot be said to be excessive.

5. We have considered the rival submissions advanced by the learned counsels for the parties. We find from a bare perusal of the counter affidavit filed by the respondents that there is no material on record to suggest that the aforesaid vehicle in question was in regular use for transportation of liquor or the petitioner is a habitual offender.

6. We have also gone through the various provisions of law, both as contained in the Act, 2016 as also Rule 12(A) of the Bihar Prohibition and Excise (Amendment) Rules, 2023 (hereinafter referred to as the "Rules, 2023") from which it is

apparent that while imposing penalty, the quantity of intoxicant recovered as also the insurance value of the vehicle is required to be considered and in case where vehicle is either undervalued or insured value is not available, valuation is required to be done by the District Transport Officer, however in the present case, we find that there is no whisper in the impugned order dated 09.09.2025, either about the insured value of the vehicle in question being not available or the vehicle being undervalued, hence the direction to assess the value of the vehicle in question by the Motor Vehicle Inspector, Samastipur is patently illegal. Even Rule 12A(4) of the Bihar Prohibition and Excise (Amendment) Rules, 2022 (hereinafter referred to as the "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, however in the present case we do not find that such exercise has been done by the Ld. Presiding Officer (Excise)-cum-Senior Deputy Collector, Samastipur while passing the impugned order dated 09.09.2025 in Confiscation (Excise) Case No. 15 of 2023-24.

7. Having considered the facts and circumstances of the case as also taking into account the fact that meager quantity of

1.125 liters of illicit liquor has been recovered, which is also one of 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, we are of the view that the penalty imposed by the learned Presiding Officer (Excise), Samastipur is excessive, exorbitant and unreasonable, hence the order dated 09.09.2025, passed in Excise Case No. 15 of 2023-24 is quashed, especially in view of the fact that additional 3% penalty on the head of maintenance of vehicle is also patently illegal, since the confiscating authority under the provisions contained in the Act, 2016, as amended upto date, has no power to impose an additional 3% penalty over and above the penalty amount, inasmuch as no penalty can be imposed over and above what has been sanctioned by law. Nonetheless, we are of the considered view that Rs. 10,000/- (Ten Thousand) by way of penalty would a reasonable amount. Accordingly, we direct that in case the aforesaid sum of Rs. 10,000/- is deposited by the petitioner before the competent authority within a period of two weeks from today, the vehicle in question shall be released by the competent authority in favor of the petitioner, after being satisfied with the documents relating to ownership of the vehicle in question, within a period of one week, thereafter.

8. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

(Sunil Dutta Mishra, J)

Rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.02.2026
Transmission Date	NA