IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 20882 of 2025

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Gopal Sharma S/o Jiut Sharma R/o Village- Asudha, P.S.- Durgawati, District- Kaimur at Bhabua.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Excise Department, Patna.
2. The Collector Cum District Magistrate, Kaimur at Bhabua.
3. Sub- Divisional Officer, Bhabua, Kaimur at Bhabua.
4. Sub- Divisional Officer, Mohania, Kaimur at Bhabua.
5. The Superintendent of Police, Kaimur at Bhabua.
6. The Superintendent of Excise, Prohibition, Kaimur at Bhabua.
7. The Station Head of Excise Police Station, Kaimur at Bhabua.

... ... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Tribhuwan Narayan, Advocate

For the Respondent-State: Mr. S.D. Yadav, AGG-IX

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date: 28-01-2026

Heard the learned counsel for the petitioner and the learned AAG-IX for the State.

2. The present writ petition has been filed for setting aside the order dated 06.11.2025, passed by the learned Collector-cum-District Magistrate, Kaimur at Bhabhua in Excise (Vehicle Confiscation) Case No.108 of 2025, whereby and whereunder penalty has been imposed to the extent of 80% of

the assessed value, i.e. Rs.1,50,000/- which totals up to a sum of Rs.1,20,000/-, apart from the petitioner having been also directed to deposit 3% of the penalty amount, i.e. Rs.3600/- in the account of Bihar State Beverages Corporation Limited (in short ‘BSBCL’). The Ld. Collector, Kaimur at Bhabhua has further directed that upon deposit of the said penalty sums of Rs.1,20,000/- and Rs.3600/- respectively and producing receipt thereof within 15 days, action shall be taken to release the vehicle in question.

3. The brief facts of the case are that an FIR bearing Bhabhua (Prohibition) P.S. Case No.409 of 2025 dt. 16.06.2025 was registered under Sections 30(a), 32(i), 32(iii), 41(1) and 41(2) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the ‘Act, 2016’) against Gopal Sharma (petitioner) from whose vehicle, i.e Maruti SX4 Car bearing Registration No. UP65BB-2876, Chasis No. MA3EFJC1500202535, Engine No. M16AN2043842, 29.880 liters of illicit liquor has been recovered, leading to the said vehicle being seized.

4. The learned counsel for the petitioner has submitted that the confiscating authority, i.e. the Collector-cum-District Magistrate, Kaimur has though by the impugned order dated 06.11.2025 directed for release of the vehicle in terms of

Rule 12A (2) of the Bihar Prohibition and Excise (Amendment) Rules, 2023 (hereinafter referred to as the “Rules, 2023”) on payment of 80% of the assessed value plus 3% thereof, but the same is exorbitant and unreasonable, inasmuch as the vehicle in question was purchased by the petitioner on 29.11.2011 i.e. about 13 years back. It is further submitted that a bare perusal of Rule 12A(2) of the Rules, 2023 would show that the Collector and the authorized officer while imposing penalty should have due regard to the quantity of intoxicant recovered, involvement of the vehicle owner and the latest insurance value of the vehicle, however in the present case the insurance value has not been considered and instead the value of the vehicle, as assessed by the Motor Vehicle Inspector, Kaimur at Bhabhua has been taken into account. Thus, it is prayed that the vehicle in question be directed to be released upon payment of a reasonable amount, considering the fact that meager quantity of 29.880 liters illicit liquor has been recovered from the vehicle in question.

5. *Per contra*, the learned AAG-IX appearing for the State has submitted that the impugned order dated 06.11.2025 has been passed in accordance with Rule 12A (2) of the Rules, 2023, nonetheless, he has not been able to deny the fact that

amount of penalty assessed by the Collector-cum-District Magistrate, Kaimur at Bhabhua is excessive.

6. We have heard the learned counsel for the parties and perused the materials on record.

7. At this juncture, we would like to reproduce Rule 12A (2) of the Rules, 2023 herein below:-

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

8. A bare perusal of Rule 12A(2) of the Rules, 2023 would show 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 06.11.2025, either about the insured value of the vehicle in question being not available or the vehicle being undervalued, hence the assessment of the value of the vehicle in question by the Motor Vehicle Inspector, Kaimur at Bhabhua is patently illegal. Nonetheless, at this juncture we would like to refer to an order dated 26.11.2025, passed by a co-ordinate 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 are 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."*

9. 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, however in the present case we do not find that such exercise has been done by the learned Collector while passing the impugned order dated 06.11.2025.

10. Having considered the facts and circumstances of the case as also taking into account the fact that meager quantity of 29.880 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 Collector, Kaimur at Bhabhua is exorbitant and unreasonable, hence the order dated 06.11.2025, passed by the Collector-cum-District Magistrate, Kaimur at Bhabhua in Excise (Vehicle Confiscation) Case No.108 of 2025 to the extent of levy of penalty of 80% of the assessed value, is quashed. Nonetheless, we are of the considered opinion that 10% of the assessed value of Rs.1,50,000/-, i.e. a sum of Rs.15,000/- would a reasonable amount by way of penalty.

11. The other aspect of the matter is whether the confiscating authority has the power to impose additional 3%

penalty over and above the penalty amount. In the present case, the confiscating authority has directed the petitioner to deposit additional 3% of the penalty amount, i.e. a sum of Rs.3600/- in the account of BSBCL which in any view of the matter is illegal, inasmuch as the confiscating authority under the provisions contained in the Act, 2016, as amended up to date has no power to impose an additional 3% penalty over and above the penalty amount. We further find that the confiscating authority, on its own cannot impose penalty over and above what has been sanctioned by law. In this connection, reference be had to a ***judgment dated 11.12.2025*** passed by a coordinate Bench of this Court in the case of ***Shantanu Kumar vs. The State of Bihar & Ors. (CWJC No. 18561 of 2025)***.

12. In view of the law laid down in the case of ***Shantanu Kumar*** (supra) as also considering the fact that the Act, 2016 does not mandate imposition of additional penalty over and above what has been sanctioned by law, we find that imposition of 3% additional penalty is wholly unjust and improper as also is an act of undue enrichment caused to a government company, which is not permissible under the law. In such view of the matter, the additional penalty of 3% to the tune of Rs. 3,600/- imposed vide order dated 06.11.2025 passed by

the District Magistrate, Kaimur at Bhabhua is quashed.

13. At this juncture, the learned counsel for the petitioner submits that he would be depositing a sum of Rs.15000/- within a period of 15 days from today and shall make available the documents of ownership of the vehicle in question before the competent authority. In such view of the matter, we direct that in case the afore-said amount is deposited before the competent authority within a period of 15 days from today, the vehicle in question shall be released in favor of the petitioner, after being satisfied with the documents relating to ownership of the vehicle within a period of one week, thereafter.

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

(Mohit Kumar Shah, J)

(Alok Kumar Pandey, J)

Kanchan./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.02.2026
Transmission Date	NA