IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.834 of 2026

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Alina Majumdar Wife of Avijit Majumdar, Resident of Village Karinamai Housing State, PS Bidhan Nagar, District Kolkata, State West Bengal.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Excise Department.
2. The District Magistrate cum Collector, Kaimur (Bhabua).
3. The Superintendent of Police, Kaimur (Bhabua).
4. The Superintendent of Excise, Kaimur (Bhabua).
5. The Station House Officer, Excise, Kaimur, Bhabua.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhay Kr. Mishra, Advocate Mr. Sonu Singh, Advocate Mr. Sarfraz Ahmad, Advocate
For the Respondent/s	:	Mr. Sanjay Prasad, AC to AAG-4

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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: 23-02-2026

The present writ petition has been filed for setting aside the order dated 01.11.2025 passed by the learned District Magistrate, Kaimur at Bhabua in connection with Excise (Vehicle Confiscation) Case No. 362 of 2025 whereby and whereunder it has been directed that the vehicle in question be released upon payment of penalty to the tune of Rs. 4,97,532/- as also deposit of further 3% of the penalty amount i.e. a sum of Rs. 14,926/- in the account of BSBCL. The petitioner has also prayed for release of her KIYA CARENS vehicle bearing Registration No. WB08P2122, Chassis No. MZBGC813 MPN069752, Engine No. D4FANM752610 in her favor, inasmuch as she is the rightful owner of the vehicle in question.

2. The brief facts of the case giving rise to the present petition are that on 10.10.2025 the prohibition officials including house guards were stationed at Mohania Police Chauki and were conducting search of vehicle for illicit liquor and during the course thereof, the aforesaid vehicle in question was intercepted, in which five persons were sitting and upon search being made 3.5 litres of illicit liquor was recovered from a bag kept under the middle seat of the said vehicle. Thereafter, Kaimur (Prohibition) Case No. 640 of 2025 dated 11.10.2025 was lodged under Section 30(a), 32(1)(3) and 41(i)(ii) of the Bihar Prohibition Excise Act, 2016 (hereinafter referred to as the "Act, 2016") against five persons including the husband of the petitioner namely, Abhijit Majumdar.

3. The aforesaid FIR led to initiation of Excise (Vehicle Confiscation) Case No. 362/2025, wherein the learned District Magistrate, Kaimur, Bhabua has passed an order dt. 01.11.2025, levying a penalty of a sum of Rs. 4,97,532/- apart

from directing for deposit of further 3% of the penalty amount i.e. a sum of Rs. 14,926/- in the account of Bihar State Beverages Cooperation Limited (hereinafter referred to as “the BSBCL”), for release of the vehicle in question by exercising the powers conferred under Rule 12(A) of the Bihar Prohibition and Excise (Amendment) Rules, 2023 (hereinafter referred to as “the Rules 2023”).

4. The learned counsel for the petitioner has submitted that though the Ld. District Magistrate, Kaimur at Bhabua, by the impugned order dated 01.11.2025 has directed for release of the vehicle in terms of the Rules 12 (A) (II) of the Rules, 2023 on payment of penalty of 50% of the insurance value along with deposit of further 3% of the penalty amount in the account of BSBCL but the same is exorbitant and unreasonable inasmuch as the quantity of liquor recovered from the vehicle is meager i.e. 3.5 litres and moreover, admittedly the petitioner was not traveling in the car at the time of seizure of illicit liquor from the vehicle in question. It is further submitted that neither the petitioner is having any role in the alleged occurrence nor she is having any criminal antecedent, hence a sympathetic view be taken and the vehicle in question be directed to be released upon payment of a reasonable amount,

considering the fact that meager quantity of 3.5 litres of illicit liquor has been recovered from the vehicle in question.

5. Per contra, the learned counsel for the respondents has submitted that the learned District Magistrate, Kaimur at Bhabua has exercised his powers under Rule 12(A) of the Rules, 2023 and has rightly passed the order dated 01.11.2025, however he has not been able to show from the counter affidavit filed in the present case that either the petitioner is having any role in the alleged occurrence or she has any previous history of indulging in trade of illicit liquor.

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 (2) (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 Dist. Transport Officer.

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 is required to be considered, however in the present case, we find that this aspect of the matter has not been taken into account in the impugned order dated 01.11.2025. 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 District Magistrate while passing the impugned order dated 01.11.2025.

10. Having considered the facts and circumstances of the case as also taking into account the fact that meager quantity of 3.5 litres 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 12(A) (2) of the Rules, 2023 and Rule12(A)(IV) of the Rules, 2022, we are of the view that the penalty imposed by the learned District Magistrate, Kaimur at Bhabua is exorbitant and unreasonable. Thus, the order dated 01.11.2025 passed in Excise (Vehicle Confiscation) Excise Case No. 362 of 2025, to the extent of levy of penalty to the tune of Rs. 4,97,532/- is quashed. Nonetheless, we are of the considered opinion that a sum of Rs. 5,000/- would be 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.14,926/- 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.14,926/-, imposed vide order dated 01.11.2025, passed by the learned District Magistrate, Kaimur at Bhabua, is also set aside.

13. At this juncture, the learned counsel for the petitioner submits that the petitioner would be depositing a sum of Rs. 5,000/- with the competent authority/ authorized officer within a period of four weeks 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 aforesaid amount is deposited before the competent authority/authorized officer within a period of four

weeks 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)

alok/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.02.2026.
Transmission Date	N/A