IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 20701 of 2025

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Bablu Kumar Mahto @ Bablu Mahto Son of Jageshwar Mahto, resident of Village- Lodipur, Police Station- Mahnar, District Vaishali. Presently House No. N. 103 Zamrudpur, Greater Kailash, S.O. South Delhi.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Registration and Excise Department, Patna.
2. The District Magistrate, Patna
3. The Senior Deputy Collector cum Excise Court, Patna.
4. The Station House Officer, Bahadurpur Police Station, Patna.
5. The Investigating Officer, Bahadurpur Police Station, Patna.

... ... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Pramod Ban Bihari Singh, Advocate
Mr. Subhash Prasad Singh, Advocate

For the Respondent/s : Mrs. Kumari Amrita, GP-3
Mr. Rajesh Kumar, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

4 05-02-2026 The present writ petition has been filed for quashing the order dated 25.11.2025 passed by the Senior Deputy Collector, Patna-cum-In-charge Officer, District Development Branch, Patna i.e. the respondent no. 3 in Vehicle Confiscation Case No. 63 of 2025-26 and consequently direct the respondents to

release the vehicle (Ertiga) bearing Registration No. HR55AV-3400, Chassis No. MA3BNC62SRM938830 and Engine No. K15CN9668211.

2. The brief facts of the case are that on 19.07.2025 at about 10:00 p.m. when the police patrolling party was on patrolling duty and were conducting checking of the vehicles, one white colour Ertiga vehicle, which was also plying on the road started moving backwards upon seeing the police party, leading to the police force having suspected some foul play, hence the said Ertiga car was chased and intercepted, whereupon the driver was caught, who upon enquiry disclosed his name as Bablu Mahto (petitioner) and upon search of the said Ertiga vehicle, 85.125 liters of illicit foreign liquor was recovered.

3. On the basis of the written report of the police personnel of Bahadurpur Police Station, Patna, Bahadurpur P.S. Case No. 231 of 2025 dated 20.07.2025 was registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act, 2016') against the said Bablu Mahto (petitioner) and owner of the Ertiga car.

4. The learned counsel for the petitioner has submitted that the respondent no. 3 while passing the impugned order dated 25.11.2025 has imposed excessive penalty which is to the extent

of 40% of the insured value of the vehicle, thus the same defeats the provisions contained in the Act, 2016 for release of the vehicle in question. It is submitted that the vehicle was found carrying 85.125 liters of illicit foreign liquor, which is not a huge quantity, hence a sympathetic view be taken and the amount assessed as penalty be reduced.

5. *Per contra*, the learned counsel for the respondents has submitted that the vehicle was found carrying 85.125 liters of illicit foreign liquor, which is a huge quantity, therefore in order to discourage transportation of such huge quantity of liquor, the penalty to the extent of 40% is reasonable and no illegality can be found with the same.

6. We have considered the rival submissions advanced by the learned counsel for the parties. A bare perusal of the counter affidavit filed by the respondents would show 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 herein is a habitual offender. At this juncture, the learned counsel for the petitioner has stated across the bar that the petitioner is having a clean antecedent and save and except the connected case, he is not an accused in any other case.

7. We have also gone through the order dated 26.11.2025

passed by a coordinate Bench of this Court in ***CWJC No. 14928 of 2025 (Rakesh Kumar Singh vs. The State of Bihar & others)*** and the one ***dated 01.12.2025*** passed in the case of ***Alok Pandey vs. The State of Bihar & others (CWJC No. 15636 of 2025)***. In the said cases, the learned coordinate Benches of this Court have held that imposition of excessive penalty 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.

8. Having considered the facts and circumstances of the case as discussed hereinabove, we are of the considered view that 10% of the insured value of the vehicle i.e. Rs. 4,28,240/- would be a reasonable amount by way of penalty. The learned counsel for the petitioner submits that the said amount would be deposited within a period of three weeks from today. Accordingly, we direct that if the afore-said amount is deposited within a period of three weeks from today, the vehicle in question shall be released by the concerned authority in favor of the petitioner forthwith, after being satisfied with the documents of the ownership of the vehicle in question. Consequently, the order dated 25.11.2025 passed by the respondent no. 3 stands modified to the aforesaid extent.

9. Now, coming to the issue of levy of 3% fine to the tune of Rs. 12,847/-, to be deposited with the account of Bihar State Beverages Corporation Limited (in short 'BSBCL'), we find that 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 & 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)***.

10. 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. 12,847/- imposed vide order dated 25.11.2025 passed by the respondent no. 3 is quashed.

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

(Mohit Kumar Shah, J)

(Alok Kumar Pandey, J)

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