IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.333 of 2026

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Shambhu Nath Rai Son of Hari Krishna Rai @ Hari Shankar Rai, Present Resident of House No. 8/47 Mahadev Jhakhandi Tukra No. 01, P.S.- Caint, Tahsil- Gorakhpur Sadar, District- Gorakhpur, Uttar Pradesh, Permanent Resident of Village- Mahuawa Buzurg, P.S.- Kushinagar, District- Kushinagar, Uttar Pradesh.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Excise Commissioner, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The District Magistrate/Collector, Gopalganj.
6. The Superintendent of Police, Gopalganj.
7. The Excise Superintendent of Police, District- Gopalganj.
8. The Sub-Divisional Magistrate, Gopalganj.
9. The Officer-in-Charge of Gopalpur Police Station, District- Gopalganj.
10. The Investigating Officer of Gopalpur PS Case No. 40/2025, dated- 15.02.2025, Gopalpur Police Station, District- Gopalganj.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Javed Aslam, Advocate

For the Respondent/s : Mr. K.P. Gupta, GP-10

Mrs. Deepanjali Gupta, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date : 09-03-2026

The present writ petition has been filed for quashing the order dated 04.06.2025 passed by the Sub-Divisional Magistrate, Gopalganj Sadar in Excise Confiscation Case No. 264 of 2025 (arising out of Gopalpur P.S. Case No. 40 of 2025) whereby and whereunder the Sub-Divisional Magistrate, Gopalganj has fixed a sum equivalent to the insured value of the vehicle in question i.e. a sum of Rs. 3,80,000/- as penalty amount for the purposes of release of the vehicle in question.

2. The brief facts of the case as per the First Information Report bearing Gopalpur P.S. Case No. 40 of 2025 dated 15.02.2025, registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act, 2016'), against two persons, namely Indrajeet Patel and Ramnath Gupta is that on 15.02.2025 at about 05:30 in the evening while the police personnel were checking vehicles for suspected illicit liquor, at about 07:15 p.m. in the evening one four wheeler vehicle was coming briskly from Uttar Pradesh, whereafter the said vehicle i.e. Tata Nexon car bearing Registration No. UP53DJ9899, Chassis No. MAT627165JLK44037, Engine No. 1.SCRAIL01JRYW38352 was apprehended and checked, leading to recovery of 375 ml. of illicit liquor and one 500 ml. Kingfisher beer can. The said occurrence led to institution of the aforesaid Gopalpur P.S. Case No. 40 of 2025.

3. The Ld. Counsel for the petitioner submits that the confiscating authority i.e. the Sub-Divisional Magistrate,

Gopalganj by the impugned order dated 04.06.2025 passed in Excise Confiscation Case No. 264 of 2025 has though 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 the insured value of the vehicle i.e. a sum of Rs. 3,80,000/-, however the same is exorbitant and unreasonable inasmuch as the quantity of liquor recovered from the said vehicle is meagre. It is further submitted that the vehicle was purchased by the petitioner on 25.10.2019 i.e. about six years back, hence the depreciated value of the vehicle in question ought to have been considered. It is next submitted that a bare perusal of the Rule 12A(2) of the Rules, 2023 would show that the Collector/his 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 all the said factors have not been considered inasmuch as the owner of the vehicle i.e. the petitioner herein was not apprehended from the spot and there is no averment in the counter affidavit to the effect that the vehicle in question was being regularly used for ferrying illicit liquor. The Ld. Counsel for the petitioner has further referred to paragraph no. 9 of the writ petition to submit that the vehicle of the petitioner was being driven by his driver Indrajeet Patel and the said driver alongwith one Ramnath Gupta were going to attend a marriage ceremony, however on the way the said vehicle was apprehended by the police and on account of recovery of illicit liquor the same was seized, nonetheless as far as the petitioner is concerned, he is having no complicity in the alleged occurrence.

4. *Per contra*, the Ld Counsel appearing for the respondent-State has submitted that the impugned order dated 04.06.2025 has been passed in accordance with Rule 12A(2) of the Rules, 2023, nonetheless the Ld. Counsel for the respondent-State has not been able to deny the fact that the amount of penalty assessed by the District Magistrate/Collector, Gopalganj is excessive.

5. We have heard the Ld. Counsel for the parties and perused the materials on record.

6. 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."*

7. 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, however in the present case, we find that there is no consideration about the meagre quantity of illicit liquor recovered from the vehicle in question, hence the order passed by the Sub-Divisional Magistrate, Gopalganj 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."*

8. 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 Ld. Sub-Divisional Magistrate, Gopalganj while passing the impugned order dated 04.06.2025.

9. Having considered the facts and circumstances of the case as also taking into account the fact that meager quantity of 875 ml. of illicit liquor has been recovered, which is also one of the factors, required to be considered while imposing the 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 Ld. Sub-Divisional Magistrate, Gopalganj is exorbitant and unreasonable, hence the order dated 04.06.2025 passed by the Sub-Divisional Magistrate, Gopalganj in Excise Confiscation Case No. 264 of 2025, arising out of Gopalpur P.S. Case No. 40 of 2025, is

quashed. Nonetheless, we are of the considered opinion that a sum of Rs. 10,000/- would be a reasonable amount by way of penalty.

10. At this juncture, the Ld. Counsel for the petitioner submits that the petitioner would be depositing a sum of Rs. 10,000/- 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 aforesaid amount of Rs. 10,000/- is deposited before the competent authority within a period of 15 days from today, the vehicle in question shall be released in favour of the petitioner after being satisfied with the documents relating to ownership of the vehicle within a period of one week thereafter.

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

(Mohit Kumar Shah, J)

(Arun Kumar Jha, J)

S.Sb/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.03.2026
Transmission Date	N/A