

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1069 of 2025

Satvinder Singh Bedi Son of Guralp Singh, Resident of Village-88/89 Guru Kripa Anand Nagar Khandawa P.S.-Khandawa, District-Khandawa, M.P. 450001.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary of the Excise Department, Bihar at Patna.
2. The District Magistrate, Kaimur.
3. The Superintendent of Police, Kaimur.
4. The Superintendent of Excise, Kaimur.
5. The Sub Divisional Officer Mohaniya, Kaimur.
6. The Investigating Officer of Police Station Mohaniya, District-Kaimur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dharmendra Kumar Singh
For the Respondent/s : Mr. Raghawendra Kumar, SC-22
Mr. Vipin Kumar Singh, AC to SC-22
Mr. Rajesh Roy AC to SC-22

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA)

Date : 05-03-2025

Heard both the parties.

2. By filing the present writ petition, the petitioner

has prayed for the following relief(s):-

(i) To issue an appropriate writ, order or directions including a writ in the nature of mandamus in Excise P.S. Case No. 13 of 2025 and issuance a writ order or direction including a writ in the nature of mandamus commanding the respondents to release the



seized vehicle bearing its registration No. DD02G0824 (BMW Car) Engine No. 0057Y453 Chassis No. WBA27DR08PY425456 which was seized in arising out of Excise P.S. Case no.13 of 2025 relates to the petitioner has been seized without proper reason.

(ii) To issue an appropriate writ/order/direction directing the respondents to take no action against vehicle during pendency of this writ petition.

(iii) And/or other writ/writs, order/orders or direction/directions may be issued which the petitioner is entitled to.

3. As per prosecution's case, there is alleged recovery of 750ml of foreign liquor beneath the driver's seat from the vehicle of petitioner bearing Registration no. DD-02-G-0824, Chassis No. WBA27DR08PY425456 and Engine No. 0057Y453. On basis of the aforesaid facts, F.I.R. was registered on 05.01.2025 bearing Excise P.S. Case No.13 of 2025 under Sections 30(a), 32(1), 32(2), 41(1) and 41(2) of Bihar Prohibition and Excise (Amendment) Act, 2018 and the vehicle in question was seized and being confiscated.

4. Learned counsel for the petitioner submitted that the alleged recovery is meager quantity of 750 ml of foreign liquor beneath the driver's seat who was seating inside the vehicle and the petitioner is owner of the vehicle in question was not involved in the offence and the vehicle was not used in



transportation of any illicit liquor. The vehicle in question is kept in open sky. It is further submitted that the District Magistrate-cum-Collector is not complying with the provisions enshrined in the Bihar Prohibition and Excise Act, 2016. The Collector has acted *ultra vires* in not providing any opportunity of hearing to the petitioner and without serving any notice to the petitioner the seized vehicle is being confiscated. Moreover, it is submitted that the seized liquor does not belong to the petitioner and a false F.I.R. has been registered with connivance of enemies. Also, a false seizure memo was prepared without involvement of any independent witnesses as both the witnesses who signed the seizure memo are police officer. The petitioner is resident of Madhya Pradesh.

5. Per contra, learned counsel appearing for the respondents submitted that the contentions raised by the petitioner are not tenable and the vehicle in question is liable to be confiscated due to recovery of the illicit foreign liquor beneath the driver's seat in accordance with the provisions of the Act. There is no illegality or impropriety in confiscating the vehicle in question and as such the petitioner does not deserve any relief so prayed.

6. In view of the above facts and circumstances and



rival submission of the parties, the legal question arise for consideration by this Court is whether the vehicle in question is liable to be seized and confiscated under the Act.

7. It is pertinent to analyse the relevant statutory provisions of the Act. The bare reading of Section 56(b) of the Act clearly shows that any vehicle or conveyance can be seized and confiscated under the Act only when the vehicle has been used for carrying/transporting any intoxicant or liquor. Section 58(3) of the Act provides that during confiscation proceeding, the owner of the vehicle has to be given opportunity of being heard. Section 57B(1) also provides that any vehicle, or other conveyance used for committing any offence punishable under the Act and seized may be released upon payment of penalty. Rule 12-A(2) of the Bihar Prohibition and Excise Rules, 2021 also provides that while imposing penalty under Section 57-B of the Act, the authority concerned is required to give due regard to the quantity of intoxicant recovered and involvement of the vehicle owner.

8. The first and foremost thing, which emerges from the aforesaid discussion of the statutory provisions, is that no vehicle can be seized or confiscated without its 'use' in commission of any offence under the Act. Under Section 30 of



the Act, transport of illicit liquor or intoxicant is an offence and in commission of such offence, a vehicle can be used. As such, use of the vehicle in transport of illicit liquor/intoxicant is *sine qua non* for its seizure and confiscation.

9. The Co-ordinate Bench of this Court in the case of **Binit Kumar v. The State of Bihar through the Principal Secretary and Others** reported in **2024 SCC OnLine Pat 850** has held that the word 'use' cannot be given liberal or expansive meaning and it has to be interpreted strictly as it has penal consequences. In view thereof, there is difference between use of vehicle for purpose of transport of illicit liquor in contravention of the Act and the meager quantity of illicit liquor recovered from the possession of a person in such vehicle.

10. In the instant case, it is crystal clear that there is meager quantity of recovery of 750ml of illicit liquor and confiscating the vehicle in question for same is not justified.

11. In light of the aforementioned discussion and considering the facts and circumstances of the case, we are of the opinion that confiscation of vehicle in question which is an expensive car, for meager quantity of 750ml of illicit liquor recovered therein is not reasonable. Therefore, the petitioner is directed to pay a sum of Rs.20,000/- (Twenty Thousand Rupees



Only) as fine within two weeks from the date of this order and then the vehicle shall be released in favour of petitioner.

12. Considering that alleged recovery is meager quantity, the aforesaid order has been passed while invoking extra-ordinary jurisdiction under Article 226 of the Constitution of India for the reason that petitioner shall not be subjected to various proceedings under the Act like Sections 58, 92, and 93 and Rule 12A of the Bihar Prohibition and Excise Rules, 2021 as amended in year 2022 and 2023, for a trivial issue of recovery of 750ml liquor and the above direction is required to prevent the multiplicity of proceedings and in the interest of justice.

13. With above observations/direction, the present petition stands **disposed of**.

(Sunil Dutta Mishra, J)

I agree
P. B. Bajanthri, J

(P. B. Bajanthri, J)

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AFR/NAFR	NAFR
CAV DATE	12.02.2025
Uploading Date	05.03.2025
Transmission Date	NA

