

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.35 of 2026

Raju Kumar Yadav @ Raju Yadav S/o Ram Singashan Yadav, Resident of village - Bahmaur Khash, P.S.- Mohania, District - Kaimur.

... .. Petitioner

Versus

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

... .. Respondents

Appearance :

For the Petitioner : Mr. Aquaib Khan, Advocate
For the State : Mr. Saroj Kumar Sharma, AC to AAG-3
Mr. Saurav Kumar Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 12-05-2026

Heard learned counsel for the petitioner and learned AC to AAG-3 for the State of Bihar.

2. The petitioner in this case is aggrieved by and dissatisfied with the order dated 24.07.2025 passed by the Secretary (Prohibition and Excise), Bihar, Patna in Excise Revision Case No. 20/2025 by which the Revisional Authority has been pleased to uphold the order passed by the Confiscating Authority and the Appellate Authority. The Revisional Authority



having rejected the revision application, the petitioner has moved this Court.

Submissions on behalf of the Petitioner

3. Learned counsel for the petitioner submits that the vehicle in question is a Tractor bearing Registration No. BR45GB-1553, Chassis No. MBNAK48ACPTF04892, Engine No. CJ.1354/PE004564. On 15.12.2023, the vehicle was intercepted by a police party. The allegation is that the vehicle was engaged in transportation of 261 liters of country made liquor. The driver of the vehicle was arrested. On the basis of his self-statement, the S.I. of Police registered Mohania P.S. Case No. 868 of 2023 dated 15.12.2023 (Annexure 'P/1').

4. It is the case of the petitioner that he is engaged in agricultural work. For the release of the vehicle, the petitioner filed an application before the Collector-cum-District Magistrate, Kaimur. It is submitted that such application was filed in terms of Rule 12A of the Bihar Prohibition and Excise Rules, 2021 (as amended up to date) (hereinafter referred to as the 'Rules of 2021 (as amended up to date)'). A report was called for from the S.H.O. of the concerned police station. In his report, the S.H.O. opposed the prayer for release of the vehicle.



5. Learned counsel submits that even as the Confiscating Authority had not issued any notice proposing to confiscate the vehicle in question and no opportunity to show case was given in the confiscation matter to the petitioner, the Confiscating Authority while rejecting the request of the petitioner to release the vehicle in question on the ground of the provision contained in sub-rule (3) of Rule 12A of the Rules of 2021 (as amended up to date), simultaneously passed an order of confiscation of the vehicle.

6. It is submitted that in the counter affidavit filed by the respondent State and its authorities, there is no averment that any notice to show cause was issued in confiscation matter.

7. Learned counsel submits that this being the position, the order of confiscation suffers from procedural infirmity and is liable to be set aside.

Submission on behalf of the State

8. Mr. Saroj Kumar Sharma, learned AC to AAG-3 for the State submits that the vehicle in question was found engaged in transportation of huge quantity of liquor i.e. 261 liters. In such circumstance, if the Confiscating Authority has decided to confiscate the vehicle in question, no fault may be found with the same.



Consideration

9. Having regard to the entire pleadings available on the record, we are of the opinion that the order of confiscation suffers from violation of principles of natural justice inasmuch as it appears that in the confiscation matter, no notice to show cause was issued to the petitioner. It was the petitioner who had approached the Confiscating Authority under Rule 12A of the Rules of 2021 (as amended up to date) for release of the vehicle which was refused citing sub-rule (3) of Rule 12A of the Rules of 2021 (as amended up to date). At this stage, the Confiscating Authority became *functus officio* insofar as the application was concerned but the Confiscating Authority did not stop there, he continued with the order and considered the matter of confiscation.

10. In the considered opinion of this Court, a notice to show cause was required to be issued in the confiscation matter and only after hearing the petitioner or his authorised representative/counsel in the confiscation matter, an appropriate order would have been passed. This has not been done. In result, the impugned orders are not sustainable in the eyes of law. The impugned orders as contained in Annexures 'P3', 'P4' and 'P5' are hereby set aside. The matter is remitted to the Confiscating Authority to consider the application for release of the vehicle



afresh keeping in view the judgment of this Court in the case of **Manjeet Kumar Yadav Vs. The State of Bihar and Others** in **CWJC No. 10126 of 2025**. The Confiscating Authority shall first decide on the application for release within a period of one month from the date of receipt/communication of a copy of this order.

11. So far as the confiscation proceeding is concerned, it will be open to the Confiscating Authority to proceed with the confiscation matter separately by issuing notice to the petitioner calling upon him to submit his response. A reasoned order in confiscation matter shall be passed by the Confiscating Authority after giving appropriate opportunity of hearing to the petitioner/his authorised representative/counsel.

12. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

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CAV DATE	
Uploading Date	13.05.2026
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