

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6743 of 2025

Vipin Kumar Son of Pavan Malakar, Resident of Village Pusaho, P.S. Bithan, District Samastipur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Excise Commissioner cum Secretary, Prohibition, Excise and Registration Department, Government of Bihar, Patna.
2. The District Magistrate, Gopalganj, District Gopalganj, Bihar.
3. The Sub Divisional Magistrate, Gopalganj, District Gopalganj, Bihar.
4. The Superintendent of Prohibition of Excise Department, Gopalganj, District Gopalganj, Bihar.
5. The Superintendent of Police, Gopalganj, District Gopalganj, Bihar.
6. The Station House Officer of Kuchaikote Police Station, Kuchaikote, District Gopalganj, Bihar.

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr.Sarbottam Kumar Sarkar, Adv.
For the Respondent/s : Mr.Mujtabaul Haque, GP 12
Mr.Pranoy Kumar, AC to GP 12

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY**
C.A.V. JUDGMENT
(Per: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY)
Date : 05-08-2025

This writ petition has been filed by the petitioner against the order dated 28.01.2025 passed in Excise Appeal Case No. 01 of 2025 by the Excise Commissioner, Bihar, Patna affirming the order dated 16.07.2024 passed by the Sub Divisional Officer, Gopalganj in Confiscation (Excise) Case No.



290 of 2024.

2. In the instant writ petition, petitioner has prayed for the following reliefs :

“(I) To quash/ set aside the impugned order dated 28.01.2025 passed in Excise Appeal Case No. 01/2025 by the learned Excise Commissioner, Bihar, Patna as contained in Annexure-P/5 to this writ application by issuing a writ to the nature of Certiorari.

(II) To quash/set aside the impugned order dated 16.07.2024 passed in Sub Divisional Confiscation (Excise) Case No. 290 of 2024 by the learned Sub Divisional Magistrate, Gopalganj as contained in AnnexureP/3 to this writ application by issuing a writ to the nature of Certiorari.

(III) To give order/orders, direction/directions commanding the respondent authorities to release the Swift Dzire Car of the petitioner by issuing a writ in the nature of Mandamus.

(IV) To give order/orders, direction/directions commanding the respondent authorities to not confiscated/forfeited and auction sell of the Swift Dzire Car of the petitioner by issuing a writ in the nature of Mandamus.

(V) To any other relief/reliefs as petitioner is entitled to get in the facts and circumstances



of the case. ”

3. Briefly stated, the facts of the present case is that there is alleged recovery of 146.880 liters of illicit liquor from the Swift Dzire Car of the petitioner bearing registration No. BR-09AP-7814. On the basis of aforesaid fact, Kuchaikote P.S. Case No. 609 of 2023 was registered under sections 30(a) of the Bihar Prohibition and Excise (Amendment)Act, 2018.

4. Learned counsel for the petitioner submitted that petitioner is not named in the first information report but he is the owner of the vehicle in question. Merely because of recovery of the alleged illicit liquor from the vehicle in question, the order of confiscation has been passed against the petitioner. It is submitted that no proper notice was served upon the petitioner in the confiscation proceeding which is against the cardinal principles of the natural justice. Being aggrieved by the order of confiscation, petitioner filed appeal before the Excise Commissioner, Bihar, Patna in Excise Appeal Case No. 01 of 2025, which has also been rejected by order dated 28.01.2025 without considering the case of the petitioner. Petitioner has never used his vehicle for transportation of India made foreign liquor. Learned counsel submits that there is complete violation of section 100 Cr.P.C. corresponding to Section 103 B.N.S.S. as



the seizure list reflects several discrepancies. It is submitted that there is neither any videography nor F.S.L./Chemical examination of illicit liquor, which is in clear violation of the provisions of the Bihar Prohibition and Excise Act, 2016 (as amended 2022). It has been orally submitted that petitioner has no criminal antecedent of similar nature. It is submitted that the orders passed by the confiscating authority and the appellate authority are illegal, arbitrary and perverse and not in accordance with law and hence they are fit to be set aside. Petitioner is further ready to avail the remedy under **Rule-12(A)** of the Bihar Prohibition and Excise (Amendment) Rule, 2021 read with amended Rules 2022 and 2023 and the petitioner is further ready to deposit the amount fixed by the confiscating authority. Petitioner is the *bona fide* owner of the seized vehicle and he has no concern with the seized illicit liquor.

5. Per contra, learned counsel for the respondents submitted that the vehicle of the petitioner was found involved in illegal transportation of prohibited liquor, and therefore, the said vehicle has been confiscated by the order dated 16.07.2024 passed by the Sub Divisional Officer, Gopalganj in Confiscation (Excise) Case No. 290 of 2024 which has been affirmed by the order dated 28.01.2025 passed by the Excise Commissioner,



Bihar, Patna in Excise Appeal Case No. 01 of 2025 and it has been held that the vehicle in question has been used for transportation of illicit liquor in violation of provisions of the Bihar Prohibition and Excise Act. It has been submitted that petitioner cannot escape from the liability of alleged recovery of illicit liquor in huge quantity from the vehicle in question.

6. From perusal of the record, it is evident that there is huge recovery of illicit liquor from the seized vehicle. As per provision of sub-rule (2) of Rule 12(A), which was amended, by which the concerned authority is empowered to impose fine from Rs. 1,00,000 to Rs. 5,00,000/-. Sub-rule 2 of Rule 12(A) (Release of Vehicles, Conveyance etc on Payment of Penalty) of Bihar Prohibition and Excise Rules, 2021 has been amended by Bihar Prohibition and Excise (Amendment) Rules, 2023 and it reads as under :

"(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.”

7. From perusal of the record it transpired that there is recovery of huge quantity of 146.880 liters of illicit liquor from his car and petitioner cannot escape from the liability of recovery of such a huge quantity of illicit liquor. At the same time, petitioner is not having criminal antecedent of similar nature.

8. In the light of the aforesaid facts and circumstances, as per the aforementioned provision of sub-rule (2) of Rule 12(A), a fine of Rs. 3,00,000/- is justified and legal. Accordingly, the impugned orders passed by the respondent authorities are hereby modified to the extent that petitioner is directed to deposit fine of Rs. 3,00,000/-. Certified copy of this judgment shall be produced within two weeks before the Sub Divisional Officer, Gopalganj and within two weeks from then if the fine, as provided herein, is deposited, the vehicle shall be released. If the fine is not remitted, Sub Divisional Officer, Gopalganj shall continue with the confiscation proceedings and consequential proceedings, including auctioning of subject matter of motor vehicle if the motor vehicle is not auctioned as



on this day.

9. With the above observation/direction, the present petition stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

mcverma/-

AFR/NAFR	AFR
CAV DATE	30.07.2025
Uploading Date	06.08.2025
Transmission Date	NA

