



2025:PATHC:108347-DB

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18845 of 2025

Vivekanand Upadhyay Son of Angad Upadhyay, Resident of Village- Dube
Ke Saraiya, P.S.- Chainpur, District- Kaimur at Bhabua.

... .. 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 at Bhabua.
4. The Superintendent of Police, Kaimur at Bhabua.
5. The Superintendent of Excise, Kaimur at Bhabua.
6. The Investigating Officer of Excise Police Station Chainpur, District-Kaimur at Bhabua.

... .. Respondents

Appearance :

For the Petitioner : Mr. Pawan Kumar Singh, Advocate
For the Respondents : Mr. Pratik Kumar, AC to GA-11

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 08-12-2025

Heard learned counsel for the petitioner and learned AC
to GA-11 for the State of Bihar.

2. The petitioner in this case is aggrieved by and
dissatisfied with the order dated 15.07.2025 passed in Excise
Appeal Case No. 85 of 2025 by the Excise Commissioner, Bihar,
Patna whereby and whereunder the Excise Commissioner being
the Appellate Authority has refused to interfere with the order of
confiscation passed by the Sub-Divisional Magistrate, Bhabhua





(Kaimur) in Excise (Vehicle Confiscation) Case No. 75 of 2025 vide order dated 13.03.2025.

3. Learned counsel for the petitioner submits that the petitioner had filed an application with proposal in Form IV and other documents as required for release of the vehicle in question. It is submitted that the release has been refused on the solitary ground that the vehicle was intercepted with 110.640 litres of liquor. It is submitted that in the case of **Manjeet Kumar Yadav Vs. The State of Bihar and Others (CWJC No. 10126 of 2025)** vide judgment dated 13.11.2025, this Court has taken a view that the vehicle cannot be confiscated and release cannot be refused on the solitary ground of quantum of liquor. This Court had occasion to go through the provisions 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)') and this Court has considered sub-rule (3) of Rule 12A which prescribes for refusal to release the vehicle on the ground of 'public interest'.

4. It is submitted that even the Appellate Authority could not appreciate the spirit of Rule 12A of the Rules of 2021 (as amended up to date) and has refused to interfere with the rejection of the application of the petitioner for release of the vehicle.





5. Learned AC to GA-11 for the State has opposed the writ application. It is submitted that the vehicle was found involved in transportation of 110.640 litres of liquor and it is stated in the impugned order that the quantity would come in the category of commercial quantity. It is, however, not denied that so far as the Act and Rules are concerned, they do not provide for any commercial quantity.

6. Having regard to the aforementioned submissions and the reason shown in the impugned orders, we find that in this case, the release has been refused on the solitary ground that the vehicle was transporting 110.640 litres of liquor. In the case of **Manjeet Kumar Yadav (supra)**, we have considered Rule 12A and sub-rule (3) of Rule 12A of the Rules of 2021 (as amended up to date). The relevant parts of the discussions and opinion of this Court are being extracted hereunder for a ready reference:-

“11. Since Rule 12A(3) talks of ‘public interest’ but it has not been clearly explained in the Rules, we would take a cue on this from the judgment of the Hon’ble Supreme Court in the case of **Saiyad Hussain Abbas Rizwi (supra) and Kameshwar Singh (supra)**. To us, it appears that the legislatures in their wisdom have inserted Rule 12A with a conscious decision to allow release of the vehicles on payment of penalty. One of





the factors to be taken into consideration for the purpose of arriving at the quantum of penalty is the quantum of liquors loaded on the vehicle, therefore, only on the ground of quantity of liquor, the competent authority cannot reject an application for release of the vehicle.

12. In our considered opinion, it is to be decided by the competent authority in appropriate cases keeping in view several factors such as whether the vehicle has been caught in commission of offence repeatedly or that the owner of the vehicle could not be verified, there may be a case where the liquors are found spurious and the owner of the vehicle may be found involved in multiple cases of like nature under the liquor laws or any other consideration of like nature. In such cases, the competent authority may form an opinion taking note of the 'public interest'.

13. If the competent authority starts rejecting an application for release of the vehicle even if it is found involved in the transportation of liquor for the first time, only by taking note of the quantum of liquor, it would act as a stumbling block in implementation of the scheme of Rule 12A, that would, in fact, frustrate the mandate of law. The word 'public interest' as occurring under sub-rule (3) of Rule 12A cannot be given a rigid





meaning, it has to be construed in the context of the scheme of the statute and it must take its colour from the statute in which it occurs.”

7. In the present case, we are of the considered opinion that rejection of the application of the petitioner for release of the vehicle is not founded on a cogent ground. The impugned orders are set aside. The S.D.M, Bhabhua (Kaimur) is directed to pass an appropriate order on the application with Form IV filed by the petitioner on 27.03.2024. Such order shall be passed keeping in view the spirit of Rule 12A of the Rules of 2021 (as amended up to date) and the judicial pronouncements on the subject which we have referred hereinabove. Such order shall be passed within one month from the date of receipt/production of a copy of this order.

8. This writ application is allowed.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

lekhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.12.2025
Transmission Date	

