

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2364 of 2025

Arising Out of PS. Case No.-44 Year-2025 Thana- Lakho District- Begusarai

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Karnal Kumar, S/o Late Ram Prakash Singh, R/o Ward No. 10, Lakho,
Begusarai, Bihar- 851129

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Government of Bihar, Patna
2. The Superintendent of Police, Begusarai
3. The SHO, Lakho Police Station, District- Begusarai, Bihar
4. The Sub-Inspector of Police, Lakho Police Station, District- Begusarai

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ritik Shah, Advocate
For the Respondent/s : Mr.S.C 22

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 10-11-2025

The record taken up on mentioning being made on
behalf of the petitioner.

2. The learned counsel for the State seeks time for
filing counter affidavit. But from the facts of the case, I do not
think any counter affidavit is required in this case.

3. Heard learned counsel for the petitioner and learned
counsel for the State.

4. The present writ application has been filed seeking
following reliefs :-

*“a. for quashing or setting aside the
order dated 28.07.2025 passed by the Ld.*



Exclusive Special Excise Judge- 1, Begusarai whereby the Ld. Excise Judge has rejected the application filed by the Petitioner for release of his vehicle bearing registration no. BR 09 AW 3244 in connection with Lakho P.S Case No. 44 of 2025;

b. directing/ commanding the Respondent authorities to release the vehicle of the Petitioner namely Hero XTREME 160 R bearing registration no. BR 09 AW 3244 which has been seized in connection with Lakho P.S Case No. 44 of 2025 arbitrarily and illegally as the police authorities have clearly declared that the said vehicle has no involvement for the offences under the Excise Act in connection with the aforesaid FIR;

c. grant monetary compensation to the Petitioner for the illegal and arbitrary action of the Respondent authorities in seizing the motorcycle of the Petitioner without the same being involved in any offences under Excise Act in connection with Lakho P.S Case No. 44 of 2025;

d. any other relief/reliefs in favour of the Petitioner which this Hon'ble Court may deem fit and proper in the facts and circumstance of the case”.

5. The learned counsel for the petitioner submits that after investigation, the police came to the finding that the motorcycle of the petitioner was not involved in whole occurrence. The motorcycle of the petitioner met with an



accident with the motorcycle of one Golu Kumar and some altercation took place between them and Golu Kumar, in order to falsely implicate the petitioner in a case under the Bihar Prohibition and Excise Act placed the illicit liquor on the motorcycle of the petitioner and got it seized. After investigation, when this fact came to the notice of the authorities, an application has been filed by the concerned police official before the learned Exclusive Special Excise Judge-1, Begusarai submitting that there was no involvement of the motorcycle of the petitioner in the occurrence and case was rather found true against one Golu Kumar and his motorcycle bearing registration no. BR-09AP-1610 and one unknown co-accused. However, learned trial court considering the bar of Section 60 of Bihar Prohibition and Excise Act did not allow the release of the vehicle. Since there is no involvement of the vehicle of the petitioner in the occurrence, the learned trial court wrongly rejected the prayer for release of the vehicle and the said order needs to be set aside by this Court exercising its power under Article 226 of the Constitution of India.

6. The learned counsel appearing on behalf of the State though submits that in absence of specific instruction, he is not able to assist this Court. However, if the involvement of



the vehicle of the petitioner was not found, the prayer of the petitioner for release of his vehicle could be considered by this Court.

7. Perused the record.

8. Brief facts of the case are that someone informed the police official about transportation of liquor on a motorcycle bearing registration no. BR-09AW-3244. The police reached the spot and found the motorcycle in running condition lying in a maize field. From a bag hanging from the handle of the motorcycle, recovery of 1.08 litres of foreign liquor was made. The matter was investigated into and subsequently, police came to know about the petitioner, who was registered owner of the motorcycle and who had some altercation with one Golu Kumar and the said Golu Kumar in order to implicate the petitioner placed the liquor on the motorcycle of the petitioner. Evidently, the vehicle of the petitioner is not liable for seizure or confiscation by the authorities considering the fact that its involvement was ruled out in police investigation. The learned trial court would otherwise have released the vehicle but for the bar of Section 60 of Bihar Prohibition and Excise Act.

9. Now, Section 60 of Bihar Prohibition and Excise Act reads as under :

“60. Bar of jurisdiction in confiscation.



—Whenever any liquor, material, still, utensil, implements or apparatus or any receptacle, package, any animal cart, vessel, or other conveyance used in committing any offence, is seized or detained under this Act, no court shall have, notwithstanding anything to the contrary contained in any other law for the time being in force, jurisdiction to make any order with regard to such property”.

10. Therefore, the learned trial court considered it appropriate not to release the vehicle considering the bar under Section 60 to be absolute. But the language of Section 60 makes it clear that when liquor, material, still, utensil, implements or apparatus or any receptacle, package, any animal cart, vessel, or other conveyance used in committing any offence, is seized or detained under the Excise Act, then only the court would have no jurisdiction to make any order with regard to such property. But when the investigating authorities have themselves submitted before the court concerned that the vehicle was not involved in the occurrence, there was no occasion for it being seized or detained under the Excise Act.

11. Further, it is pertinent to note that despite provisions for bar of jurisdiction of any Court in any statute, writ jurisdiction of High Court is not ousted. In this regard, reliance can be placed on the decision of this Court in the case



of *Suresh Sah Vs. State of Bihar & Ors., 2020 (1) BLJ 706*, wherein learned Division Bench of this Court had occasion to consider the jurisdiction of Special Excise Court and High Court in view of Section 60 of Bihar Prohibition and Excise Act, 2016. Here, it was clearly held that in the light of Section 60 of said Act, jurisdiction of Special Excise Court is barred, but such bar does not operate in the exercise of jurisdiction under Article 226 of the Constitution of India. The relevant paragraph of the *Suresh Sah case* (supra) reads as follows:-

“28. Even if the vehicle is not liable for confiscation then the Special Judge under the Act in view of the bar under Section 60 of the Act does not have the jurisdiction to direct for the release of the vehicle. However, such bar will not operate in exercise of jurisdiction under Article 226 of the Constitution of India, since such power is required to be exercised in the given prevailing monstrous situation.....”

12. Having regard to the position of law and the peculiar facts and circumstances giving rise to the present anomalous situation, this Court thinks it fit and proper to exercise its extra-ordinary power under Article 226 of the Constitution of India and order for release of vehicle bearing registration no.BR-09AW-3244 in favour of its registered owner forthwith subject to the condition to be imposed by the court



concerned.

13. It is ordered accordingly.

14. Accordingly, the present writ petition stands
allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.11.2025
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