

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3035 of 2019

Vijay Saw (aged about 29 years, Male), Son of Nandan Saw, Resident of Village- Makhdumpur, Gangati (Ganati), P.O.- Sarwan Bazar, P.S. Barachatti, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department, Bihar, Patna.
2. The District Magistrate, Gaya, Bihar.
3. The Senior Superintendent of Police Gaya, Bihar.
4. The Officer In-charge, Bodh- Gaya Police Station, District- Gaya, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh
For the Respondent/s : Mr. Vikash Kumar (SC11)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 20-02-2019

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

The petitioner prays for provisional release of his Pick-up Van bearing registration No. BR02W0581, Chassis No. MC1D1AG-A4EPOO4727, Engine No. D27075390 which has been seized in connection with Bodh Gaya P.S. Case No. 701 of 2018 for the offence punishable under section 279 and 304(A) of the Indian Penal Code read along with side provision 37(ii) of the Bihar Prohibition and Excise Act, 2016 and section 185 of the Motor Vehicle Act.

The allegation against the petitioner is of drunken driving and in such condition, the vehicle has been seized. Undisputedly, there is no recovery from the vehicle as it is also



confirmed from the seizure list.

Having heard learned counsel for the parties and taking note of the legal positions settled by this Court in the case of *Diwakar Kumar Singh Vs. The State of Bihar through the Principal Secretary, Excise Department & Ors. reported in 2018 (3) PLJR 403*, we direct for release of the vehicle in question in favour of the petitioner within a week on furnishing/production of the document showing the ownership of the vehicle and registration certificate in the name of the petitioner supporting the claim of the petitioner before the designated Court below because neither the F.I.R. nor the seizure list reflects any reason for proceeding to be continued against the vehicle in question.

Since nothing has been recovered from the vehicle, there is no question of submission of any surety bond in view of the judgment of the Hon'ble Division Bench of this Court. The confiscation proceeding itself is a futile exercise because there is no recovery of liquor.

With the observations/directions above, this writ petition is allowed.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2019
Transmission Date	NA

