

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10595 of 2019

Yogeshwar Ray, Son of Sri Suresh Ray, resident of Village- Kalyanpur, P.S.
Athmalgola, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Excise Department,
Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Superintendent of Police, Muzaffarpur.
4. The Station House Officer, Kudhani (O.P.) Police Station, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Tej Pratap Singh, Advocate
For the Respondent/s : Mr. Kumar Manish (Sc5)

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-08-2019

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. BR01GG4802 which has been seized in
connection with Kudhani (Turki O.P.) P.S. Case No. 486 of 2018 for the
offence punishable under section 414 of the Indian Penal Code and
section 30(a) of the Bihar Prohibition and Excise Act, 2016.

It is submitted by learned counsel for the petitioner that his
vehicle was stolen for which FIR bearing Bidupur P.S. Case No. 399 of
2018 was lodged. Later on the vehicle was recovered from the
possession of Subodh Mahto and Lal Babu Kumar who confessed that
the vehicle was stolen and was used for transportation of liquor.



Learned counsel submits that a plain reading of the FIR would confirm that no recovery was made from the vehicle rather in the statement of the accused, it was recovered from the river side.

The FIR confirms the statement of the petitioner regarding no recovery from the vehicle.

Having heard learned counsel for the parties and taking note of the fact that no recovery was made from the vehicle, in view of the legal position 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 Pick-up van in question.

Since nothing has been recovered from the Pick-up Van, there is no question of submission of any surety bond in view of the judgment of the Hon’ble Division Bench of this Court.

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

(Jyoti Saran, J)

(Partha Sarthy, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

