

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.38869 of 2023**

Arising Out of PS. Case No.-245 Year-2020 Thana- BIBHUTIPUR District- Samastipur

PAWAN KUMAR Son of Meghu Mahto Resident of village - Singhia Buzurg,  
P.S. - Bibhutipur, Distt. - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Mirityunjay Kumar, Advocate

For the Opposite Party/s : Mr.Ahmad Ali, APP

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**ORAL ORDER**

3      24-07-2023                      Heard learned counsel for the petitioner and learned  
APP for the State.

2. This application has been filed for quashing of F.I.R vide Bibhutipur P.S. Case No. 245 of 2020 registered for the offences under Sections 272 and 273 of the Indian Penal Code and Section 30A of the Bihar Prohibition and Excise Act, 2016.

3. It is alleged that 711 litres of foreign liquor has been recovered from the vehicle of the petitioner.

4. It has been submitted by learned counsel for the petitioner that 711 litres of foreign liquor has been recovered from the vehicle of the petitioner and accordingly, his vehicle was seized and the confiscation proceeding was initiated and the same was released by learned Magistrate after depositing the



fine.

5. It has further been submitted that neither the petitioner was identified by fleeing away nor any person disclosed his name that he was also involved in the crime. Because of the crime committed by the driver, his vehicle was seized and being an owner of the said seized vehicle, the petitioner's name has transpired.

6. It has further been submitted that the Investigating Officer of the present case investigated the matter in mechanical manner due to which final report is still pending against all real owner of all seized vehicle.

7. Learned counsel for the petitioner has submitted that no material had come during investigation to make the petitioner accused in the present case but the police without any material added the petitioner as an accused only because he is the owner of the vehicle in question which is a commercial vehicle and which is given on hire by the petitioner.

8. Learned APP appearing for the State has gone through the case diary of the present case and submits that no material has come during investigation even to remotely connect the petitioner with the alleged crime.

9. I have heard the submissions of both the parties and



also perused the materials available on record. When an individual buys a commercial vehicle and pays the commercial tax and utilizes the same for earning his livelihood, he cannot be prosecuted in a case without any material available on record.

**10.** It is an admitted position that driver and two persons were caught in the vehicle and they did not say a single word against the petitioner to connect with the crime.

**11.** During investigation, charge-sheet has also been submitted by the police against accused persons who had been caught with the vehicle and the liquor but the petitioner has not been charge-sheeted.

**12.** In view of the above, this application is allowed. The F.I.R vide Bibhutipur P.S. Case No. 245 of 2020 registered for the offences under Sections 272 and 273 of the Indian Penal Code and under Section 30A of the Bihar Prohibition and Excise Act, 2016 and all consequential proceedings arising out of aforesaid F.I.R are hereby quashed in the interest of justice against the petitioner only. The proceeding against other accused shall continue.

**(Sandeep Kumar, J)**

Harsh/

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