

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.35926 of 2015

Arising Out of PS.Case No. -153 Year- 2015 Thana -PHULPARAS District- MADHUBANI

1. Kamleshwar Sharma, son of Sri Dharm Nath Sharma, resident of Teacher's Colony, Dimna Road, P.S. Mango, District Jamshedpur (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 21-08-2015

By way of filing an application under Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the order dated 29.06.2015, passed by the learned Sub Divisional Judicial Magistrate, Jhanjharpur in Phulparas P.S. Case No. 153 of 2015, whereby he has been pleased to impose condition of furnishing indemnity bond of Rs. 13 lac along with two sureties of the like amount as a condition for release of Tata Axle Skeletal Trailor bearing Registration No. NL-01/D 4849. The said vehicle was seized in connection with Phulparas P.S. No. 153 of 2015 registered under Sections 279 and 427 of the Indian Penal Code on 23rd of May, 2015.

The aforesaid police case was registered on the basis of written report of one Gyan Chandra Paswan, Chaukidar which is

to the effect that on 23.05.2015 in course of routine patrolling , at about 10 A.M. near NH-57, a truck having open body on which eight Mahindra Tractors were loaded bearing Registration No. NL-01D/4849 being driven at a high speed came and dashed the pickup van resulting in damage to the same.

The petitioner had filed an application for release of the vehicle before learned Sub Divisional Judicial Magistrate on 09.06.2015. The learned Magistrate called for a report from the concerned police station. The Officer-in-charge of the police station submitted his report dated 17.06.2015, wherein no objection was raised in respect of release of the vehicle in favour of the petitioner. After considering the contentions advanced on behalf of the petitioner and the report submitted by the Officer-in-charge of the police station, the learned Sub-Divisional Judicial Magistrate, directed for release of the vehicle vide impugned order dated 29.06.2015 upon:

- (i) Furnishing an indemnity bond of Rs. 13 lac; and,
- (ii) The indemnity bond so furnished by the petitioner was to be backed by two sureties of 13 lac each; alongwith other ancillary conditions.

It is contended by learned counsel for the petitioner that the aforesaid conditions are absolutely onerous and too difficult to be



complied with. He contends that the truck in question is of 2007 Model and at the time of purchase the value of the truck was Rs. 11 lac only. On account of passage of time of about 8 years, the value of the truck has depreciated materially and as per the valuation under the insurance norms, the present value would not exceed under any circumstance to Rs. 7 lac. He contends that requiring the petitioner to furnish an indemnity bond of Rs. 13 lac and that too coupled with two sureties of the like amount for its release is not justified.

On the other hand, learned counsel for the State does not seriously contest the matter. He submits that in case the conditions imposed by the court below are modified, the state would have no objection to it.

On the facts and in the circumstances of the case, the learned Sub-Divisional Judicial Magistrate, Jhanjharpur is directed to release the vehicle upon:

- (i) Furnishing an indemnity bond of Rs. 7 lac;
- (ii) The indemnity bond so furnished by the petitioner is to be backed by two sureties of Rs. 7 lac each; and,
- (iii) Furnishing an undertaking on an affidavit that the petitioner shall not dispose of or alienate the vehicle in question during pendency of the case without permission of the Court.

With these observations and directions, the application is disposed of.

(Ashwani Kumar Singh, J)

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