

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11406 of 2013

Arising Out of PS.Case No. -464 Year- 2010 Thana -KOTWALI District- -

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Rahul Kumar Niraj

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. G.S.Gupta(App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

2 07-05-2015 The learned counsel for the petitioner at the very outset seeks permission to delete the name of opposite party No.2. Permission is accorded.

Heard the learned counsel, Mr. Om Prakash Prasad, appearing on behalf of the petitioner and the learned A.P.P. also.

This application under Section 482 Cr.P.C. has been filed for quashing the order dated 4.11.2011 whereby the learned Judicial Magistrate, Ist Class, Patna in Kotwali P.S. Case No.464 of 2010 refused to release articles belonging to the petitioner which is in custody of the police. The learned counsel for the petitioner submitted that the learned counsel for the petitioner submitted that he is not named in the F.I.R. However, during the course of investigation, it was found that the petitioner is also involved. Cognizance under sections 406 and 420 / 34 I.P.C. has



been taken. The learned counsel further submitted that all the articles seized from the possession of the petitioner are the personal property of the petitioner. The seizure list has been annexed as Annexure '3' to the application. The learned counsel submitted that he undertakes that all the articles if required and if directed shall be produced at the time of trial of the case but the articles seized have got no relation with the findings alleged to have been committed in this case, therefore, if it is allowed to be kept in the custody of the police, the petitioner shall suffer loss as even the A.T.M., mobile etc. have been seized.

Perused the seizure list. Perused the order passed by the Court below also. The Court below has assigned the reason for refusal that the articles may be exhibited during trial. Since the petitioner is undertaking that all the seized articles if required and directed by the Court below at the time of trial shall be produced by the petitioner for exhibiting the same, therefore it is not necessary to keep the articles in the custody of the police.

In view of the above facts and circumstances of the case, I direct that the seized articles be released in favour of the petitioner on filing undertaking by the petitioner to the effect that he will produce all the released articles if and when directed by the Court below during trial and if necessary. Thus, this Cr. Misc.

application is allowed. The order passed by the Court below is set aside and it is directed that the articles be released in favour of petitioner only after filing the valid undertaking to produce the same if Court direct to do.

The order may be communicated to the Court below through Fax, if the cost of the same is deposited by the petitioner.

(Mungeshwar Sahoo, J)

Sanjeev/-

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