

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.682 of 2016

=====

Ranjay Kumar @ Pappu Singh, son of Sri Sudarshan Singh, Resident of Village and P.O. Surajpura, P.S.- Surajpura, District- Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Superintendent of Police, Rohtas at Sasaram, District- Rohtas at Sasaram.
3. The Station Head Officer, Bikramganj Police Station, District- Rohtas at Sasaram.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. S. B. K. Manglam, Advocate
Mr. Ravi Ranjan, Advocate

For the Respondent/s : Mr. Apurva Kumar, A.C. to G.A.-4

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

ORAL JUDGMENT

Date: 14-09-2016

The challenge in the present petition is to an order passed by the learned Sessions Judge, Rohtas at Sasaram on 26th of February, 2016 whereby, the Pajero vehicle bearing registration No.BR24P-4031 was ordered to be released in favour of the receiver of the financier M/s Sundaram Finance Limited.

The aforesaid vehicle was seized by the Investigating Officer in pursuance of Bikramganj P.S. Case No.66 of 2014 registered for the offence under Sections 147, 148, 149, 341, 323, 324, 307 IPC and Section 27 of the Arms Act against the petitioner and one accused Amit Kumar on the *fardbeyan* of Baburam Singh. The petitioner as a registered owner filed an application for release of the vehicle, but the same vehicle was

financed by M/s Sundaram Finance Limited. The stand of the petitioner was that he has paid due amount to the Financer M/s Sundaram Finance Limited as the said Company has given 'no objection' for release of the vehicle in his favour. Therefore, the vehicle is liable to be released in his favour.

The learned Trial Court passed an order to release the vehicle in favour of M/s Sundaram Finance Limited vide order dated 05.08.2014. The revision against the said order was dismissed on 13th of October, 2014. Thereafter, another application was filed by the petitioner for release of the vehicle on the ground that the matter has been settled between him and the Financer, but again the Additional Chief Judicial Magistrate rejected the release petition of the petitioner on 7th of January, 2016. The said order has been affirmed by the learned Sessions Judge, Rohtas at Sasaram by order dated 26th of February, 2016.

In a supplementary affidavit filed, the petitioner has produced 'no objection certificate' issued by M/s Sundaram Finance Limited on 05.03.2015 and earlier order of Kolkatta High Court dated 15.03.2013 whereby on an application by the Financer, possession of the vehicle was given to the receiver.

From the supplementary affidavit filed, it appears that the petitioner has paid the amount dues to the Finance

Company and the Finance Company has issued ‘no dues certificate’. Therefore, there is no reason as to why the vehicle should not be released in favour of the petitioner. It is open to the finance company to claim that it had not settled the matter with the petitioner, which request would be considered by the Learned Trial Court in accordance with law.

The order passed by the learned Trial Court on 7th of January, 2016 and affirmed by the learned Sessions Judge, Rohtas at Sasaram by order dated 26th of February, 2016 are wholly inequitable, unjust and untenable. Consequently, the same are set aside. The learned trial Court is directed to release the Pajero vehicle bearing Registration No.BR24P-4031 seized in connection with Bikramganj P. S. Case No.66 of 2014 on furnishing adequate security to its satisfaction.

The writ petition stands disposed of.

(Hemant Gupta, J.)

Sunil/-

AFR/NAFR	N. A. F.R.
CAV DATE	N. A.
Uploading Date	16.09.2016
Transmission Date	16.09.2016