

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5148 of 2016

Arising Out of PS.Case No. -261 Year- 2014 Thana -BETTIAH TOWN District-
WESTCHAMPARAN(BETTIAH)

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Bipin Prasad son of Late Ramji Sah, resident of Kotwali Chowk, P.S.
Bettiah Town, District – West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar
2. Vimlendu Kumar, Officer-In-charge of Bettiah Town P.S. Bettiah, P.S.
Bettiah Town, District – West Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey

For the Opposite Party/s : Mr. Yogendra Kr.Singh(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 06-10-2016 Heard learned counsel for the petitioner
and learned counsel for the State.

In the present case, the petitioner seeks
quashing of the order dated 15.01.2015 passed by
learned Sessions Judge, Bettiah, West Champaran in
Cr. Revision No. 255 of 2014 by which he has
affirmed the order dated 08.11.2014/10.11.2014
passed by the learned Chief Judicial Magistrate,
Bettiah, West Champaran in Bettiah Town P.S. Case
No. 261 of 2014.

Learned counsel for the petitioner submits



that the silver which was carried by the son of the present petitioner was seized and, hence, Bettiah Town P.S. Case No. 261 of 2014 dated 29.05.2014 was registered. It is further submitted that though the petitioner has subsequently, gone to the police for release of the said silver and had also approached police and thereafter the Court for release of silver under the provisions of Section 452 of the Code of Criminal Procedure, the learned Court below, and now the learned Court of Session vide its impugned order has rejected the prayer of the petitioner for release of the Silver. It is further submitted that the petitioner is willing to execute a bond/indemnity bond for furnishing surety of an equivalent amount and, thereafter, under the provisions of Section 452 Cr.P.C, the Silver which was seized may be released in his favour. It is further submitted that the petitioner undertakes to abide by the decision in the trial and his sureties, if at all, the case as against him is found to be true, may be released and his sureties may be forfeited. However, since the seized silver is



languishing and his business is being seriously, hampered on account of such seizure, the order passed by the learned court of Sessions is wholly irregular and arbitrary, as such may be set aside. It is further submitted that the learned Sessions Judge only rejected the case of the petitioner, as in his opinion, the petitioner while purchasing the silver has not paid VAT which was leviable on the purchase of such silver. It is further submitted that, if at all, the same is required to be paid, the petitioner shall do so.

In view of such facts and circumstances of the case and also considering the legal provisions, as enshrined in the Cr. P.C. it would be appropriate and in the interest of justice, to direct for release of the silver in favour of the petitioner on furnishing necessary and adequate security.

Accordingly, the order dated 15.01.2015 passed by the learned Sessions Judge, Bettiah, West Champaran in Cr. Revision No. 255 of 2014 and the order dated 08.11.2014/10.11.2014 passed by the learned Chief Judicial Magistrate, Bettiah, West

Champaran in Bettiah Town P.S. Case No. 261 of
2014 are hereby set aside.

(Anjana Mishra, J)

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