

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52525 of 2015

Arising Out of PS.Case No. -109 Year- 2014 Thana -AWTARNAGAR District- SARAN

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Anil Kumar Ray, S/o Sipahi Rai, R/o village Saidpur P.S.- Sonepur, Distt.- Saran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Chandra Gandhi, Advocate

For the Opposite Party/s : Mr. R.B. Roy Raman, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 05-08-2016

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioner has sought for quashing of the order dated 30.07.2015 passed by the learned Additional District & Sessions Judge-8th, Saran at Chapra in Sessions Trial No. 223 of 2015 arising out of Avatar Nagar P.S. Case No. 109 of 2014 whereby he has rejected the petition dated 20.05.2015 filed by the petitioner for release of motorcycle bearing registration No. BR 01CB-5953 which was seized by the police in connection with Avatar Nagar P.S. Case No. 109 of 2014 registered under Sections 302, 120-B, 307 read with 34 of the Indian Penal Code and 27 of the Arms Act.



It is submitted by the learned counsel for the petitioner that the petitioner is the registered owner of the motorcycle in question and learned Additional Sessions Judge-8th, Saran at Chapra has rejected the application for release mainly on the ground that the motorcycle is a material exhibit in connection with the police case. He has submitted that the impugned order has been passed ignoring the law laid down by the Supreme Court in **Smt. Basava Kom Dyamogouda Patil vs. State of Mysore & Ors. [(1977) 4 SCC 358]; Sunderbhai Ambalal Desai vs. State of Gujarat [(2002) 10 SCC 283]; Sunderbhai Ambalal Desai vs. State of Gujarat [(2002)10 SCC 290] and General Insurance Council & Ors. vs. State of Andhra Pradesh & Ors. [(2010) 6 SCC 768].**

Learned counsel for the State does not dispute the aforesaid contention of the petitioner. He concedes that the order impugned has been passed in contravention to the mandate of law as prescribed under Section 451 of the Code of Criminal Procedure as also the decisions of the Supreme Court on which learned counsel for the petitioner has placed reliance.

Regard being had to the submissions advanced at the Bar and the law laid down by the Supreme Court in the aforementioned cases, the order impugned cannot be sustained.

Accordingly, the impugned order dated 30.07.2015 passed in Sessions Trial No. 223 of 2015 is set aside.

The court below is directed to hear the matter afresh and pass appropriate order in accordance with law after taking into consideration the ambit and scope of Section 451 of the Code of Criminal Procedure as explained in the aforementioned decisions of the Supreme Court.

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

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	
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