

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.2523 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

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Kumaresh Saha S/o Late Tarapada Sah, R/o Village- Anandapalli, Madhyampara,
Uttampur, P.S.- Karimpur, District- Nadia (West Bengal). Petitioner

Versus

The State of Bihar through the Principal Secretary, Home Department, Bihar, Patna.
..... Respondent

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Adv.

For the Respondent/s : Mr. Sheo Shankar Prasad, S.C.-8.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 13-12-2017

Heard learned counsel for the parties.

2. This writ application has been preferred for quashing the order dated 17.10.2017 passed by the learned Chief Judicial Magistrate, West Champaran at Bettiah in Bettiah Town P.S. Case No. 556 of 2017, registered under Sections 307, 353, 279, 427/34 of the Indian Penal Code, whereby the learned court below has refused to release the truck of the petitioner bearing Registration No. WB23B 9084 considering the substantial nature of allegation that the truck driver deliberately wanted to kill the police personnel.

3. Submission of the learned counsel for the petitioner is that the petitioner has got no efficacious remedy against refusal of pre-trial release of the vehicle. It is further submitted that in **Sunderbhai Ambalal Desai versus State of Gujarat** reported in **2002 (10) SCC 283**, the Hon'ble Apex Court has categorically held that no purpose would be served by continued detention of the vehicle which is also a perishable



item. Hence, the Magistrate should pass appropriate order immediately in the matter.

4. Para 17 of the aforesaid judgment is being reproduced below:-

“In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

5. Considering the aforesaid factual position, let the aforesaid vehicle be released by way of ad interim custody in favour of the petitioner on execution of surety bond of Rs.15,00,000/- (Rupees Fifteen lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount to the satisfaction of the learned court below/authority concerned where the case is pending, with condition that the petitioner would not dispose of the said vehicle or put the same under encumbrance without permission of the authority concerned and shall produce as and when required by the Court.

6. With the aforesaid observation, this writ application stands disposed of.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.12.2017
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