

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26885 of 2013

Arising Out of PS.Case No. -248 Year- 2010 Thana -GOPALPUR District- BHAGALPUR

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1. Amit Kumar, S/O Late Bimlesh Choudhary, resident of village- Durgapur, P.S.-
Khagaria Muffasil, District Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Chandan Kumar Kashyap, Advocate

For the Opposite Party/s : Mr. APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 12-01-2017

This application has been filed for quashing the order dated 25.10.2011 passed by the 1st Additional Sessions Judge, Naugachia, in Sessions Trial No.98 of 2011 arising out of Gopalpur (Rangra) P.S. Case No.248 of 2010, whereby the learned Court below has rejected the petition filed by the petitioner for release of the motorcycle bearing registration no. BR-34B- 1689.

Heard learned counsel for the petitioner and the learned APP for the State.

It has been submitted on behalf of the petitioner that he holds valid document for the motorcycle. There is report of the District Transport Officer as well as the Police in favour of the petitioner, but still the Court below has refused to release the



motorcycle on the ground that the same has been used in the occurrence. The vehicle is lying in the police station since 2011. It has been submitted that the petitioner is ready to furnish proper sureties for release of the vehicle in his favour.

From the impugned order itself, it appears that the seized motorcycle is kept in the Malkhana in the open space. The Court below has mentioned in the impugned order itself that para 159 of the case diary shows that the petitioner is the owner of the said motorcycle as per verification report of the District Transport Officer. The Court below has rejected the prayer merely on the basis of the statement made in para 163 of the case diary, which shows that petitioner Amit Kumar used the said motorcycle in the crime.

This Court is not satisfied with the reasoning assigned by the Court below in rejecting the prayer of the petitioner for release of the motorcycle, which is lying in the Police Station since 2011. It appears from the impugned order itself that the petitioner is the owner of the said motorcycle as per the report of the District Transport Officer.

In such circumstances, the order dated 25.10.2011 passed by the 1st Additional Sessions Judge, Naugachia, in Sessions Trial No.98 of 2011 arising out of Gopalpur (Rangra) P.S. Case No.248 of 2010 is hereby quashed.



The Court below is directed pass afresh order in accordance with law within one month from the date of receipt/production of a copy of this order with regard to release of the vehicle if the petitioner produces valid document in support of ownership of the vehicle and produces proper sureties to the satisfaction of the Court below.

The application stands allowed.

(Sanjay Priya, J)

JA/-

AFR/NAFR	NAFR
CAV DATE	N/A
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