

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.658 of 2017

Arising Out of PS. Case No.-132 Year-2017 Thana- SARAIYA District- Muzaffarpur

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Ram Ishwar Sharma, S/o Nagina Sharma, Resident of Mohalla- Bagmali,
P.S.- Hajipur Town, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar, ,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar
		Mr. Niraj kumar
For the Respondent/s	:	SMT. ASHA KUMARI

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 20-07-2017 Heard learned Counsel for the petitioner and learned
Additional Public Prosecutor representing the State of Bihar.

The vehicle of the petitioner (Bolero), bearing registration no. BR-01PE/9088, has been seized by the Police in connection with Saraiya Police Station Case no. 132 of 2017, registered for the offences punishable under Sections 272 and 273 of the Indian Penal Code and Sections 30 (a), 37, 38, 41 of the Bihar Prohibition and Excise Act, 2016.

His application for release of the said vehicle has been rejected by an order, dated 04.05.2017, passed by learned Additional Sessions Judge III –cum- Special Judge, Excise, Muzaffarpur, which order is under challenge in the present



application.

Mr. Sandeep Kumar, learned Counsel appearing on behalf of the petitioner, has drawn my attention to an order of this Court, though interim in nature, dated 16.02.2017, passed in CWJC No. 1791 of 2017, whereby considering the question of law involved, the Court directed for release of vehicle in that case. He has drawn my attention to another order, dated 11.07.2017, passed in Cr.W.J.C. No. 811 of 2017, in support of his plea that the vehicle ought to have been released by the learned Court below.

This is not in dispute that the petitioner is the registered owner of the vehicle, in question. At the place of occurrence, the petitioner was not present. It is his plea that it was not within his knowledge that the vehicle was being used for some illegal purpose.

In response to a query made by this Court, learned Additional Public Prosecutor has failed to inform this Court whether any confiscation proceeding has been initiated under the Bihar Prohibition and Excise Act, 2016.

In my view, the learned Court below ought to have directed for release of the vehicle in such circumstance. The order, dated 04.05.2017, is accordingly set aside.



Let the vehicle, in question, be released in favour of the registered owner, who is said to be the petitioner himself, on furnishing sureties of Rs. 50,000/- in connection with Saraiya Police Station Case No. 132 of 2017.

Before releasing the vehicle, the learned Court below must satisfy itself that no confiscation proceeding has been initiated under the Act by the Collector.

This application stands allowed.

It goes without saying that the petitioner shall be obliged to produce the vehicle, in question, as and when required by the learned Court below.

(Chakradhari Sharan Singh, J)

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