

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.150 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- PURNIA

=====

Sujeet Kumar, Son of Dileshwar Prasad Yadav, Resident of Mohalla- Batraha,
Ward No. 25, P.S.+District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar, through the District Magistrate-cum-collector, Purnea.
2. The Superintendent of Police, Purnea.
3. The S.H.O., Janki Nagar Police Station- Purnea.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Adv.
Mrs. Kalpana Kusum, Adv.
For the Respondent/s : Mr. Nadim Seraj, GP-5
Mrs. Shalini, AC to GP-5

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT
Date: 28-04-2017

Heard the learned counsel for the parties.

2. The petitioner claims to be the owner of the pickup van bearing Reg. No.BR-19J-1927 which was seized in connection with Janki Nagar P.S. Case No.33 of 2016 on 31.03.2016 for alleged violation of the Bihar Excise Act, 1915 as the same was carrying 129.6 liters of foreign liquor in different plastic bags.

3. The petitioner has invoked the writ jurisdiction of this Court for quashing the order dated 20.12.2016 (Annexure-6) passed by the learned Judicial Magistrate-1st Class, Purnea in Janki Nagar P.S. Case No.33 of 2016, whereby the learned court below



refused to release the aforesaid vehicle in favour of the petitioner on the ground of seriousness of the allegation.

4. Submission of the petitioner is that the petitioner has no efficacious remedy than this application as in the past also the petitioner had moved the court below for release of the said vehicle and on refusal of the prayer had moved the learned Sessions Judge in Cr.Rev.No.122 of 2016, vide Annexure-3. The learned Sessions Judge remitted back the matter and again the petitioner met with the same fate in spite of the direction of the Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat reported in (2002) 10 SCC 283**. In paragraph 17 of the said judgment, the Hon'ble Apex Court had observed as follows:-

“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. Learned counsel for the respondents opposed the prayer on the ground that huge quantity was recovered from the said vehicle. Hence, it should not be released in favour of the petitioner.



6. After hearing the parties and considering the aforesaid observations of the Hon’ble Apex Court in **Sunderbhai Ambalal Desai Vs. State of Gujarat (supra)**, in my view, no purpose would be served to allow the detention of the said vehicle as it is neither needed to be produced during the course of trial nor it can conveniently be produced during the trial. Moreover, the apprehension can be secured by giving appropriate direction to the petitioner to produce the vehicle as and when required and not to dispose of the same till conclusion of the trial.

7. In the circumstances, it is ordered that the referred vehicle be released in favour of the petitioner on verification of the owner book of the petitioner on execution of security bond of Rs.6,00,000/- (six lacs) along with two sureties with condition that the petitioner shall not dispose of the same without permission of the court and shall produce as and when required by the court.

8. With the aforesaid observations, this writ application stands allowed.

Arvind/-

(Birendra Kumar, J)

AFR/NAFR	
CAV DATE	
Uploading Date	08.05.2017
Transmission Date	08.05.2017

