

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34439 of 2014

Arising Out of P.S.Case No. -70 Year- 2012 Thana -MADANUPARA District- AURANGABAD

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Bishwanath Sah @ Bishwanath Prasad Resident of Gaya Road, Barhi , P.S.
Barhi , District - Hazaribagh (Jharkhand)

.... Petitioner

Versus

1. The State of Bihar.
2. Rajkishore Tiwary , Proprietor of Sanjay Road Lines ,G.T. Road Parao ,
P.S. Mugalsarai , District - Chandauli (Uttar Pradesh)

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Sanjay Kumar, Advocate
For the Opposite Parties : Mr. Rajesh Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 28-07-2017

Heard.

This application under Section 482 of the Cr.P.C. has been filed to quash the order dated 12.03.2014 passed by learned Ist Additional Sessions Judge, Aurangabad in Sessions Trial No.237 of 2012 whereby and whereunder the prayer of the petitioner to release the articles was refused.

The facts in brief is that a police case vide Madanpur (Aurangabad) P.S.Case No.70 dated 21.03.2012 under Sections 395 of the IPC was registered against 14-15 unknown miscreants on the fardbeyan of the driver of the truck. The informant has alleged that in the night of 19.03.2012 while he was going towards Bardwan (West Bengal) along with 160 bags of sugar and 200 bags of pulses on his truck, some unknown miscreants hijacked the truck and after intoxicating pushed him down and took away the truck along with the loaded articles. In course of investigation, one of the accused was apprehended who



confessed his complicity in the crime and on the basis of the confessional statement, a raid was conducted at the premises of this petitioner from where 291 bags of sugar and 300 bags of pulses were seized believing them to be part of the looted articles. It has been submitted that the said articles were purchased by him from different establishment and were kept in his godown. The petitioner produced papers with respect to the articles to justify his claim which was disbelieved by the court below and his prayer to release was rejected. It has been further submitted that the court below has passed the order in mechanical manner without going into the merit of the petition and so the impugned order is fit to be quashed. The learned APP opposed the submissions.

On perusal of impugned order and papers annexed with this application, it appears that one of the co-accused, namely, Kishan Kumar Verma was arrested with the truck in question. He made confessional statement and confessed that he had unloaded the sugar and pulse bag at the godown of this petitioner in the morning of 20.03.2012. On his disclosure and identification, the police seized the articles in question. Both the apprehended accused were chargesheeted by the police. The learned Additional Sessions Judge while rejecting the prayer of the petitioner has observed that his prayer of release was rejected earlier by order dated 04.03.2013. The said order was challenged before this Court by filing Cr.Misc.No.16338 of 2013. The order was confirmed on 25.07.2013 observing that at the end of the trial the ownership of the article will be decided and if the ownership of sealed article is decided in favour of the petitioner then certainly it will be the obligation of Opposite Party No.2 (Proprietor of Sanjay Road Lines) to compensate the petitioner with the value of goods along with eight percent of compound interest. The matter relating to ownership of seized articles is still subjudice and so at this stage, I do not think it



proper to interfere with the impugned order.

This criminal miscellaneous application is devoid of merit and is accordingly dismissed.

(Sanjay Kumar, J)

B.Kr./-

AFR/NAFR	NAFR
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