

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.159 of 2017

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

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Parmanand Chaubey @ Parmanandan Chaubey, son of Late Ram Bhabhishan Chaubey, Resident of Village- Sadatput, Police Station- Kanti, District- Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Ranjan

Mr. Sushil Kumar

For the Respondent/s : Mr. Anil Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 23-03-2017

By the impugned order dated 18.1.2017, the learned Sessions Judge-cum- Special Judge, Muzaffarpur has rejected the application filed by the petitioner for release of a vehicle- Scorpio, which was seized while carrying 5 kg of 'ganja'. The said 'ganja' was recovered from beneath the seat of the aforesaid vehicle. Accordingly, , Kurhani P.S. Case No. 362 of 2016 came to be registered for the offence punishable under Sections 399, 402, 414 of the Indian Penal Code, under Sections 25(1-b),a,26(11), 35 of the Arms Act and Section 20(b)(ii)(B) of the N.D.P.S. Act.

From the impugned order what I find is that the learned Sessions Judge has refused to release the vehicle by the impugned



order dated 18.1.2017 at that stage for two reasons. Firstly, the court has found that since investigation was still pending, it would not be proper to release the vehicle. Secondly, the court below has taken note of Section 60(3) of the Narcotic Drugs and Psychotropic Substance Act which lays down that any conveyance used in carrying any narcotic drugs or psychotropic substance or any other article is liable for confiscation under sub-section (1) or sub-section (2) of the Act.

It is the case of the petitioner that he was not in the vehicle and the persons named in the F.I.R. had hired the said vehicle owned by the petitioner. Learned counsel for the petitioner informed that there is no reason by now that the investigation would not have been completed, the case having been instituted on 15.11.2016. On the question of application of Section 60(3) of the Act, the learned counsel for the petitioner drawn my attention to a decision of this Court dated 4.8.2015 passed in Criminal Miscellaneous No. 214 of 2015 (**Sarfaraz Ansari vs. The State of Bihar**) and other analogous cases to contend that in similar circumstances, the Court has directed for consideration of release of vehicle though in that case also the case was registered under the Narcotic Drugs and Psychotropic Act and the vehicle liable confiscation.

I find substance in the submission advanced on behalf of the petitioner to the extent that Section 60(3) of the Narcotic Drugs



and Psychotropic Act does not put a bar for release of a vehicle during the pendency of investigation or trial by the court below in appropriate cases.

Accordingly, this application is disposed of by quashing the impugned order dated 18.1.2017 and making a remand to the court below to consider the petitioner’s application afresh for release of the vehicle, as has been observed in the case of **Sarfaraz Ansari** (supra). It is observed that the court below shall release the vehicle in favour of the petitioner only when he is able to satisfy the court that he is the registered owner of the vehicle in question and undertakes that he shall not dispose of the same during the pendency of the trial and shall produce the vehicle before the court or before such authority as the Court may direct. The court will be at liberty to take appropriate certificate of the petitioner to its own satisfaction while passing an order of release of vehicle.

This application stands disposed of.

(Chakradhari Sharan Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28-03-2017
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