

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.442 of 2017

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SUBHASH KUMAR SINGH @ SUBHASH SINGH, Son of Tapeswar
Singh, Resident of Village- Badokhar, P.S.- Haspira, District- Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Superintendent of Police, Aurangabad.
3. Officer-in-Charge, Aurangabad Town, P.S.- District- Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar

For the Respondent/s : Mr. Manish Kumar (GP4)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-01-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner is aggrieved by the order dated 21.07.2016 passed by the learned 1st Additional Sessions Judge, Aurangabad in Sessions Trial No.7 of 2015 arising out of Town P.S. Case NO.392 of 2014 registered under Sections 302 and 120B of the Indian Penal Code and Section 27 of the Arms Act by which the learned court below has refused to release the Bajaj Discover Motorcycle bearing Reg.No.BR26B/0491 in favour of the petitioner who is said to be the owner of the vehicle.



Learned counsel for the petitioner submits that a perusal of the impugned order dated 21.07.2016 passed by the learned court below would show that the vehicle in question has not been ordered to be released only because the court below is of the opinion that vehicle in question is a material exhibit as it was allegedly used in commission of the offence. Learned counsel submits that in the said case petitioner has already been enlarged on bail and keeping the vehicle in question in the open space somewhere in the premise of the police station is not likely to serve any purpose save and except that the vehicle in question will get damaged and over the period it would become useless. He further submits that in the case of *Sunderbhai Ambalal Desai Vs. State of Gujarat* reported in (2002) 10 SCC 283 and in the case of *General Insurance Council and others Vs. State of Andhra Pradesh and others* reported in (2010) 6 SCC 768, the Hon'ble Apex Court has explained the circumstances in the matter relating to release of the seized vehicle and property and guidelines have been provided by the Hon'ble Apex Court.

Learned counsel for the State though opposed the prayer for release of the vehicle in question, but does not dispute the aforesaid judicial pronouncements.

In the facts and circumstances stated above and



keeping in mind the guidelines laid down by the Hon'ble Supreme Court, let the vehicle of the petitioner be released provisionally on production of proof of ownership and registration of the vehicle subject to the following conditions:-

(i) Petitioner shall furnish surety bond of Rs.75,000/- (seventy five thousand) (not in form of bank guarantee or cash) with two sureties of the like amount to the satisfaction of court below or the authority concerned.

(ii) The petitioner shall also give an undertaking that he will not deal with the vehicle in question and shall not alienate or encumber the same creating any kind of adverse interest against the interest of the State, he will not use the vehicle for any illegal purpose and as and when required, he will produce the vehicle in question before the competent court/authority.

(iii) A photograph of the vehicle shall be taken and panchnama be also prepared, get certified in presence of the petitioner and be kept on record. The petitioner undertakes not to challenge the same in course of trial.



The impugned order dated 21.07.2016 passed by the learned 1st Additional Sessions Judge, Aurangabad in Sessions Trial No.7 of 2015 arising out of Town P.S. Case NO.392 of 2014 is set aside.

The application stands disposed of.

(Rajeev Ranjan Prasad, J)

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