

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55356 of 2018

Arising Out of PS.Case No. -55 Year- 2018 Thana -GOPALPUR District- PATNA

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Rita Devi, wife of Ganesh Prasad @ Ganesh Saw, resident of Fakirchand Road, Ramkrishna Nagar, Near L.P. Sahi College, Police Station-Ramkrishna Nagar, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Patna.
2. The District Magistrate cum Collector, Patna.
3. The Senior Superintendent of Police, Patna.
4. The Superintendent of Police City, Patna.
5. The Deputy Superintendent of Police, Patna Sadar, Patna.
6. The S.H.O. Cum Officer-in- Charge, Gopalpur Police Station, District-Patna.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Jha, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhayay, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3. 04-10-2018

Heard learned counsel for the petitioner and Mr. Jharkhandi Upadhayay, learned Additional Public Prosecutor for the State.

Let it be recorded that in absence of the A.P.P. whose name appears in the cause list, this court has requested Mr. Upadhayay to assist the court.

The petitioner in the present case is seeking quashing of the order dated 19.05.2018 passed in Special Case No. 21/2018 by which the prayer of the petitioner to release the vehicle in question in his favour has been rejected by the learned District & Sessions Judge, Patna.

Learned counsel for the petitioner submits that the petitioner is the owner of the vehicle in question which has been seized from the possession of his son who has been



made an accused in Gopalpur P.S. Case no. 55/2018 under Section 20/22 of the N.D.P.S. Act and Section 25(1-b)a/26/35 of the Arms Act.

It is submitted that as per allegations 2 kgs. Ganja has been recovered from the Jeans Pant of the son of the petitioner and from the co-rider a live cartridge with loaded pistol was also recovered. Learned counsel submits that till date no confiscation proceeding has been initiated with respect to the vehicle in question and in case any confiscation order is passed with respect to the vehicle in future he would abide by the order of confiscation or such other order which may be passed by the competent court.

It is further submitted that the vehicle is lying under open sky for the last more than six months and if it is allowed to remain there it will become a junked and will be of no value even if ultimately confiscated. In such circumstances, the State will have nothing to get from sale of the vehicle.

Learned counsel representing the State submits that in such circumstance if the court is willing to release the vehicle, same conditions may be prescribed to protect the interest of the State.

In the given facts and circumstances of the case, this court would direct that on the petitioner producing the document of ownership and registration in his name with regard to the vehicle in question the same shall be released in his favour on the petitioner furnishing two sureties to the extent of the value of the vehicle in question as indicated in the insurance document with further undertaking that he will



not deal with the vehicle in question in any form whatsoever during pendency of the case and as and when a confiscation proceeding is initiated he will participate in the same and shall abide by the order passed in the confiscation proceeding. The petitioner shall also undertake to produce the vehicle in question as and when required in connection with the case.

Let there be a provisional release of the vehicle within a week from the date petitioner satisfies the aforesaid conditions.

This application stands disposed off.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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