

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.3000 of 2016**

Arising Out of PS. Case No.-86 Year-2013 Thana- MUFFASIL District- West Champaran

Udit Tiwary @ Udit Rai son of Vindeshwari Rai, Resident of village-  
Mishrauli, Police Station- Jogapatti (Sanichari), District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar No.-7

For the Opposite Party/s : Mr. Shailendra Kumar Singh (App)

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL ORDER**

2     23-07-2018                      The motorcycle of the petitioner bearing registration no. BR22J-3001 was seized in connection with Bettiah Muffasil P.S. Case No. 86 of 2013 dated 13.02.2013 instituted for the offences under Sections 20, 22, 23, 27(A) and 29 of the Narcotic Drugs and Psychotropic Substances Act.

The son of the petitioner viz. Binay Tiwary was arrested with the narcotics along with the aforesaid motorcycle which he was riding.

The petitioner had sought for the release of the vehicle from the special court viz. the learned Additional District and Sessions Judge, 4<sup>th</sup>, West Champaran at Bettiah which has been rejected primarily on the ground that the son of the petitioner, who was riding the aforesaid motorcycle, is being tried by the juvenile court



and therefore the order of release, if at all has to be passed, can be passed only by the concerned juvenile court.

Learned counsel for the petitioner has submitted that one of the accused persons of this case, may be because of his juvenility is being tried by the juvenile court, but the fact of the matter remains that the special court is the court of the learned Additional District and Sessions Judge, 4<sup>th</sup>, West Champaran at Bettiah, which is the only competent court to direct for the release of any vehicle seized in connection with any case.

In that view of the matter, the order dated 08.01.2015 cannot be sustained in the eyes of law and the same is set aside.

The case is remitted to the court of the Additional District and Sessions Judge, 4<sup>th</sup>, West Champaran at Bettiah for writing out a fresh order in accordance with law.

It is made clear that this Court has expressed no opinion about the correctness of the order refusing to release the vehicle in favour of the petitioner. The only ground which has weighed to this Court in setting aside the order is that the special court has abdicated its functions and has said that no order could be passed



because one of the accused persons was facing trial in the juvenile court. It is further made clear that the court below shall within four weeks of the production/receipt of a copy of this order, shall apply his mind afresh over the facts of the case and shall pass an order in accordance with law.

Needless to repeat that if the court does not deem it appropriate to release the vehicle in favour of the petitioner in view of the facts of the case, he has the liberty to refuse the prayer and will not be influenced by the fact that the earlier order passed by him has not found favour with this Court.

With the aforesaid observations/direction, this application is disposed off.

**(Ashutosh Kumar, J)**

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