

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55371 of 2018

Arising Out of PS.Case No. -221 Year- 2014 Thana -BAIKUNTHPUR
District- GOPALGANJ

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Shyamdeo Rai son of Late Shiv Bachan Rai, Resident of
Village- Bahrapur, P.S. Baikunthpur, District- Gopalganj.

.... Petitioner

Versus

1. The State of Bihar.
2. Station House Officer, Baikunthpur Police Station, District-
Gopalganj.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma

For the Opposite Party/s : Mr. Md. Ashlam Ansari

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2. 24-09-2018

Heard learned counsel for the petitioner and
learned counsel representing the State.

Learned counsel for the petitioner submits that
the petitioner has aggrieved by the order dated 18.07.2018
passed by learned 2nd Additional Sessions Judge cum
Special Judge, Excise Act, Gopalganj in Baikunthpur P.S.
Case No. 221 of 2014, Tr. No. 1618 of 2018.

Learned counsel for the petitioner points out
that while disposing of Cr.W.J.C. No. 1419/2018, this
court had directed release of the vehicle, Samsung Mobile
with Sim and Rs. 1,48,000/- belonging to the petitioner on
furnishing two sureties to the satisfaction of the court
below and other conditions.

It is submitted that pursuant to the order
passed by this court when the petitioner filed an



application in the court below for allowing him to submit the surety bond, the court below has passed the impugned order directing him to submit indemnity bond of Rs. 12 lakhs and two sureties for the same amount.

Learned counsel submits that it will appear from the seizure list that no illicit liquor was recovered from this vehicle. The vehicle, mobile and cash were seized by the police only because of the accused was found in the vehicle. The fact that no seizure of illicit liquor has been made from the vehicle in question is evident from the seizure list.

Learned counsel for the State is present.

In the facts and circumstances stated hereinabove, this court is of the considered opinion that the condition imposed by the learned 2nd Additional Sessions Judge cum Special Judge, Excise Act, Gopalganj are onerous conditions which cannot be sustained the test of law.

Considering the fact that no illicit liquor was recovered from the vehicle, in view of the Division Bench Judgment of this court in the case of **Diwakar Kumar Singh Vs. The State of Bihar and Ors.** reported in **2018 (3) PLJR 403**, this court directs release of the vehicle, mobile phone and the amount in question in favour of the petitioner without furnishing any surety.



The order dated 18.07.2018 passed by learned 2nd Additional Sessions Judge cum Special Judge, Excise Act, Gopalganj in connection with Baikunthpur P.S. Case No. 221 of 2014, Tr. No. 1618 of 2018 is set aside.

Accordingly, this application stands disposed off.

(Rajeev Ranjan Prasad, J.)

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