

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.967 of 2016

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Sikandar Prasad Singh, Resident of Village- Kurhath Khateyan, Police Station- Hariharganj, District- Palamu, State- Jharkhand.

.... Petitioner/s

Versus

1. The State of Bihar, through Chief Secretary, Govt. of Bihar.
2. The District Magistrate, Aurangabad.
3. The Superintendent of Police, Aurangabad.
4. Station House Officer, Aurangabad Town Police Station Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Krishna Tiwary
For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 09-01-2018 Petitioner has filed the present writ application for quashing the impugned order dated 26.02.2016 passed in Session Trial No.340 of 1998 by the learned Additional Sessions Judge-III, Aurangabad (Bihar) by which the learned court below has rejected the petitioner's application dated 20.11.2015 and 26.02.2016 jointly.

Learned counsel for the petitioner submits that petitions dated 20.11.2015 and 26.02.2016 were filed for release of the truck bearing Reg.No.BEZ/4555 which belongs to the petitioner and was seized by the police in connection with Aurangabad P.S. Case No.26 of 1998 under Section 396 I.P.C. He submits that in the said case, the petitioner was made an accused



and the vehicle was also seized, but in course of trial in Session Trial No.214 of 1998/340 of 2014 the petitioner has already been acquitted. A copy of the order of acquittal has been brought on record as Annexure-3 to the writ application.

Submission of the learned counsel for the petitioner is that by the impugned order the learned Additional Sessions Judge has rejected the application for release despite noticing the fact that now no case is pending in connection with the petitioner or the vehicle in question and the petitioner has been acquitted in the session trial which arose out of the police case. Learned counsel submits that seizure is of the year 2003 and unfortunately he could not take steps to move this Court earlier when the application for release of the truck was rejected at the first instance on 13.11.2003, but that cannot be a valid reason for the court below to reject his prayer for release at this stage.

No one appears for the State.

On perusal of the impugned order I would instantly come to a conclusion that the reasons shown for rejection of application dated 20.11.2015 and 26.02.2016 are not legal and valid reasons to reject the application for release. It appears that the learned Additional Sessions Judge has rejected the application for release only because the applications were filed after about 12



years. I am afraid this kind of rationale and reasoning provided by the court below does not inspire confidence in view of the judicial pronouncements made by Hon'ble Supreme Court in the case of Sundarbhai 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.

In the present case, the session trial has already been concluded and the petitioner stands acquitted. In these circumstances, the applications for release should not have been rejected by the court below in a mechanical manner.

Accordingly, this writ application is disposed of and the learned court below is directed to pass an appropriate order in accordance with law in respect of the release of the vehicle within a period of one month from the date of receipt/production of a copy of this order.

(Rajeev Ranjan Prasad, J)

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