

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.674 of 2018

Arising Out of PS. Case No.-89 Year-2017 Thana- DURGAWATI District- Bhabhua (Kaimur)

Angeshwar Mahato, Son of Dwarika Mahato @ Davarika Mahto, Resident of
Village + Post-Kapka, Police Station-Barkatha, District-Hazaribagh
(Jharkhand) ... Petitioner

Versus

1. The State of Bihar Through The Home Secretary, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Kaimur at Bhabhua.
4. The Station House Officer, Police Station-Durgawari, District-Kaimur.
5. The INvestigation Officer of Durgawari P.S. Case No. 89 of 2017,, P.S.-
Durgawati, District-Kaimur ... Respondents

Appearance :

For the Petitioner	:	Mr. Rajesh Kumar Pathak, Adv.
For the State	:	Mr. Sheo Shankar Prasad (Sc8)
For the informant	:	Mr. Ashok Kumar Garg, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 07-05-2018 Heard the parties.

Petitioner has moved this Court seeking release of his vehicle (truck) bearing registration no. HR-55Q-0129 having Chassis no. MAT66416b2n027429 and Engine No. 11163207801 loaded with coal, which, according to the petitioner, has got valid transit challan to deliver at Chhatarpur.

The petitioner had earlier move for release of his vehicle before the learned Judicial Magistrate, 1st Class, Kaimur at Bhabhua, who vide his order, dated 27.07.2017, rejected his application, thereafter, the petitioner moved in revision before the Additional Sessions Judge, I, Kaimur at Bhabhua, but, again, the revision application preferred by the petitioner was rejected



by the Additional Sessions Judge, I, Kaimur at Bhabhua. The petitioner has, therefore, also prayed for quashing of the order, dated 27.07.2017, passed by the learned Judicial Magistrate, 1st Class, Kaimur at Bhabhua, and the order, dated 30.11.2017, in Cr. Revision No. 160/30 of 2017, as contained in Annexures 3 and 4 respectively.

Learned counsel for the petitioner submits that the vehicle in question has been seized in connection with Durgawati P.S. Case No. 89 of 2017 on the allegation that 325 bags of wheat which were loaded on the truck through Fouzi Road Lines, a transporter firm, did not reach its destination at J.D. Enterprise, Chas Bokaro. The allegation was that the Fouzi Road Lines had provided the truck, which had disappeared with the wheat in question.

Learned counsel points out from the statement made in paragraph 7 of the application that in fact the informant who is claiming ownership of the wheat had earlier entered into a compromise with the transporter firm through its owner, Alok Singh, and in course of hearing of the bail application of Alok Singh a statement was made that there had been a compromise and that the value of wheat was not due. In this back ground of the facts, learned counsel submits that even though the



informant has received the value of wheat as per his own stand, the truck in question is standing under open sky for last about two years and every day it is loosing worthiness. The petitioner is also suffering because of loss of business etc. He, further, submits that the petitioner would be ready and willing to abide by such terms and conditions which may be imposed for the purpose of release of vehicle in question.

On the other hand, learned counsel representing the informant who has appeared before this Court on his own, has opposed the application and pointed out that the wheat in question were misappropriated by the petitioner. Learned counsel, however, submits that the release of vehicle may be allowed only on furnishing of proper sureties so that the petitioner may be bound by the final order which may be passed by the learned trial Court in connection with case in question.

Having heard learned counsel for the parties and upon finding the fact that the informant has remained entered into a compromise and made a statement to that effect in the cse of Alok Singh, the proprietor of Fouzi Road Lines and this petitioner has also been granted regular bail in the said case, there is no reason why the vehicle in question be not allowed to be provisionally released pending trial. There is no likelihood



of conclusion of trial in near future.

In the facts and circumstances of the case, let there be a provisional release of the vehicle in question on furnishing two sureties to the satisfaction of the learned Court below within a period of one week from the date of submission of the sureties bond by the petitioner. The provisional release will also be subject to the condition that during the pendency of the trial the petitioner shall not sell or dispose of the vehicle in question to any third party creating any right or interest in his favour in respect to the truck in question, he shall abide by the direction of the learned trial Court as and when given in respect of the truck in question.

The application stands **disposed off** accordingly.

(Rajeev Ranjan Prasad, J)

Shamshad/-

U			
---	--	--	--

