

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40186 of 2017

Arising Out of PS.Case No. -179 Year- 2017 Thana -HILSA District- NALANDA
(BIHARSHARIFF)

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1. Prem Ranjan Kumar Son of Birendra Singh Resident of village-
Balbhadrasarai, P.O. and P.S.- Hilsa, District- Nalanda
2. Rajaram Prasad Son of Devnandan Prasad Resident of village- Kharjama
Asta, P.S.- Tharthari, District- Nalanda

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nilesh Kumar

For the Opposite Party/s : Mr. Sri Mustaque Alam

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 28-05-2018 This application under Section 482 Cr.P.C. is directed against the order dated 02.05.2017, passed by the learned A.C.J.M., Hilsa, in connection with Hilsa P.S. Case No. 179 of 2017 whereby, the learned court below has refused the prayer of the petitioner to release the seized tractor and trailer. The tractor and trailer of the petitioner were seized for alleged violation of the Mines and Minerals (Development and Regulations) Act, 1957 as the same was found carrying sand. The police report sent to the learned court below vide Annexure-8 would reveals that the seizure was from the possession of the petitioners. However, the Registration Number of the vehicle was not the same which was mentioned in the owner book though the Engine number and Chassis number are same. The petitioners challenged the aforesaid order before the learned Sessions Judge, Nalanda at Biharsharif in



Cri. Revision No. 211 of 2017 and by order dated 01.07.2017 the learned A.D.J-III dismissed the revision application though, submission of the petitioner before the court below was that in several decision the Hon'ble Apex Court and the High Court held that the vehicle should not be kept in police lockup for long during the trial.

Submission of learned counsel for the petitioner is that there is no other claimant of the vehicle. Hence, it could not have been the ground for the courts below to refuse the release of the vehicle only on the ground that the vehicle was not carrying correct registration number. It will be subject matter of the trial to see the correctness of the claim. Moreover, the release would be interim in nature. Hence, the status of the petitioner would be of bailer in the event of release of vehicle. Moreover, the petitioners have stated on oath that they are the owners of the vehicle and the police has also reported that the petitioners are the owners.

In the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat** reported in **AIR 2003 SC 638** considering the identical matter, the Hon'ble Apex Court in paragraph 17 of the judgment held as follows:

“In our view, whatever be the situation, it is of no use to keep such seized vehicles at police stations for a long period. It is for the Magistrate to pass appropriate orders



immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

Considering the aforesaid proposition, there is no reason for further detention of the vehicle in police lockup. It would benefit none of the parties.

Hence, let the vehicle be released in favour of petitioner on execution of surety bond of Rs. 3 Lakhs for Tractor and Rs. 3 Lakhs for Trailor separately along with the two sureties. Accordingly, both the orders impugned dated 01.07.2017 passed by learned Additional Sessions Judge- 3rd, Nalanda at Biharsharif in Criminal Revision No. 211 of 2017, Trial No. 21 of 2017 and order dated 02.05.2017 passed by A.C.J.M. 1st, Hilsa in connection with Hilsa P.S. Case No. 179 of 2017 stands quashed.

This application is allowed.

(Birendra Kumar, J)

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