

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.426 of 2019

Arising Out of PS. Case No.-57 Year-2015 Thana- KOILWAR District- Bhojpur

Manoj Sah Son of Bishwanath Sah Resident of Village- Chhotaki Bishunpur,
Police Station-Shahpur, District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Govt. of Bihar, Patna
2. The Home Secretary, Government of Bihar, Patna
3. The Director General of Police, Bihar, Patna.
4. The District Magistrate, Bhojpur (Ara). Bhojpur(Ara)
5. The Superintendent of Police, Ara District-Bhojpur. Bhojpur
6. The S.H.O. Koilwar Police Station, District-Ara (Bhojpur).

.. ... Respondent/s

Appearance :

For the Petitioner/s : Mr.Arbind Kumar Singh, Advocate
For the Respondent/s : Mr.Manish Kumar, GP-4

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 11-03-2019

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

2. In the instant application preferred under Articles 226 and 227 of the Constitution of India, the petitioner has made a prayer for directing the respondents to release Mahindra Bolero Pick-up Van bearing registration no. BR 03K 7918 which was seized in connection with Koilwar P.S. Case No. 57 of 2015 registered for the offence punishable under Sections 20(b)(i) and 22 of the Narcotic Drugs and Psychotropic Substances Act.

3. Prior to the filing of the instant application, the petitioner had filed Cr. Revision No. 854 of 2015 under



Sections 397 and 401 of the Code of Criminal Procedure before this Court. The prayer made in the said revision application in para-1 was as under:-

“That this is an application for setting aside the order dated 24.04.2015 passed by Sessions Judge, Bhojpur Ara in NDPS Case No. 2/2015 arising out of Koilwar P.S. Case No. 57/2015 by which prayer to release Bolero Pickup Van of the petitioner bearing registration No. BR 03 K/7918 has been rejected. Accordingly, learned Sessions Judge, Bhojpur, Ara in NDPS Case No. 2 of 2015 arising out of Koilwar P.S. Case No. 57/2015 be directed to release Bolero Pickup Van bearing Registration No. BR 03 K/7918 in favour of the petitioner being owner of the vehicle.”

4. The said prayer of the petitioner was rejected by a bench of this Court vide order dated 03.05.2016. The petitioner did not challenge the said order dated 03.05.2016. Thus, the said order attained finality. An identical prayer, as made in Cr. Revision No. 854 of 2015, has been made by the petitioner, of course, under Articles 226 and 227 of the Constitution of India. On query, as to how this application is



maintainable when the earlier order passed by this Court was not challenged learned counsel for the petitioner submitted that since the vehicle is lying in the Koilwar Police Station campus under open sky and the same would turn into a junk, if not released by this Court a necessity to file second application has arisen. He contended that so far as the petitioner is concerned, the investigation is still going on and it is not known by what time the investigation would be completed.

5. Be that as it may, since the prayer for release of the vehicle made earlier by the petitioner has already been rejected by a bench of this Court, unless the said order is set aside or there is any change of the circumstance, this Court can not allow the prayer of the petitioner as the same would amount to reviewing the order, which is barred under Section 362 of the Code of Criminal Procedure.

6. In that view of the matter, the application is dismissed.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
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