

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.224 of 2019

Arising Out of PS. Case No.-2 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

1. M/S B.L.R. Logistiks (I) Ltd. through its Branch Manager Rupak Biswas
Aged about 40 Years Son of Swapan Kumar Biswas, Resident of Danda
Panitola, P.O.-Nabadwip, P.S.-Nabadwip, District-Nadia, West Bengal.
2. Alpharub Trading and Manufacture (P) Ltd. Kerala through its Manager
Trading, Anoop Mohandas Male aged about 39 years Son of B. Mohandas
Resident of 49/793B Siva Kripa, NJRA 19, Aishwarya Lane, P.S.-
Elmakkara, District-Ervakulam,Kerala.

... .. Petitioner/s

Versus

Union Of India Through Narcotics Control Bureau, Karpoori Thakur
Sadan,C.G.O.Complex, D and E Block, Ashiyana Digha Road, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sajid Salim Khan, Adv
For the UOI	:	Mr.Manoj Kumar Singh, CGC.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 12-03-2019

Heard learned for the parties.

This Criminal Revision application has been filed on
behalf of petitioners for setting aside the order dated 31.01.2019
passed by Session cum Special Judge, NDPS, Patna, in Special



Case No. 04 of 2019 by which their petition under Section 451 of the Cr.P.C to release rubber sheets loaded on Truck bearing Registration No. JK 02 AV6179 was rejected by the order as impugned.

Prosecution case is based upon a complaint filed by Intelligence Officer, NCB, Patna that he received a confidential information that a Truck loaded with Ganja is coming from Agartala to Bakhtiyarpur and a team was constituted of NCB and said Truck was intercepted in Bakhtiyarpur and persons sitting in said Truck disclosed their name as Jasvinder Singh (Driver) and Binay Kumar and on search of the Truck 49 packets of Ganja weighing 766 Kgs was recovered and seized in presence of two independent witnesses in the office of NCB and FIR under section 20, 25, 29 of the NDPS Act dated 11.01.2019 was instituted.

Petitioner No. 1 is the Branch Manager of M/s B.L.R Logistics (I) Ltd. a transport company and petitioner no. 2 is the Manager of Alpharub Trading and Manufacture (P) Ltd. Kerala which is one of the most reputed company in Rubber Industry based in Kerala, which sold 400 Bundles of natural rubber-sheets to Kohinoor Export and Import Private Ltd., Jalandhar, Punjab and said consignment of rubber-sheets were dispatched



from supplier Agartala to Jalandhar by BLR Logistics(I) Ltd., by Truck and as such petitioner no. 2 is the rightful owner of seized 400 bundles of natural rubber-sheets and was dispatched by transporter petitioner no. 1 on proper tax invoice and E-way bills to the petitioner no. 2.

It has been further submitted that without any knowledge and permission of the transport company the driver and other co-accused Vinay Kumar loaded Ganja in the said Truck and used the rubber-sheets to conceal it. In their confession before the NCB authorities also they have stated that petitioner no. 1 and petitioner no. 2 had no knowledge with regard to loading of Ganja in the Truck and same was loaded by them against the specific instruction that no other goods except the 20,000/- Kgs rubber-sheets valued at Rs. 22,57,500/- will be loaded and transported in the said Truck.

The prayer of petitioners for release of rubber-sheets has been opposed by Mr. Manoj Kumar Singh, learned counsel appearing on behalf of NCB that as per provisions mentioned in Section 60 and 61 of NDPS Act the seized rubber-sheets loaded on Truck from which 49 packets of Ganja weighing 766 Kgs was recovered and was used to conceal the Ganja and as such are liable for confiscation and the same cannot be released in



favour of petitioners. The investigation is still continuing and the rubber-sheets are liable for confiscation as the same were used to conceal the Ganja.

It has been further submitted by the learned counsel for the petitioners that the seized rubber-sheets are perishable in nature having a shelf life of 90 days, as such required to be urgently released in favour of petitioners otherwise same will become useless. In the entire prosecution report there is no allegation against petitioner no. 1 or petitioner no. 2 that they are in any manner concerned with the seized Ganja. They have not been made accused in NDPS case.

After hearing learned counsel for the petitioners and counsel for the NCB and in view of law laid down by Supreme Court in the case of ***Sunderbhai Ambalal Desai Vs State of Gujarat*** since reported in ***(2002) 10 SCC 290*** and ***General Insurance Council & Ors vs State of Andhra Pradesh & Ors*** since reported in ***(2010) 6 SCC 768***, the order dated 31.01.2019 passed by Sessions cum Special Judge, NDPS, in Special Case No. 04 of 2009 arising out of F.No NCB/LZU/PZU/V/02/2019, is set aside and the seized rubber-sheets weighing 20,000/- Kgs valued at Rs.22,57,500/- are directed to be released in favour of petitioners on furnishing bank guarantee of Rs. 22,57,500/-.



Subject to the aforementioned observation and
direction, the revision application is allowed.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.03.2019
Transmission Date	16.03.2019.

