

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.599 of 2019

Arising Out of PS. Case No.-146 Year-2016 Thana- KHAIRA District- Saran

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Laxman Prao Yadav @ Laxman Prasad Yadav Son of Nanhaku Ray, Resident
of Village - Motirajpur, P.S.- Morhowra, Distt - Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate Saran
2. The Superintendent of Police, Saran.
3. The Deputy Superintendent of Police, Saran
4. The State House Officer Khaira, Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manoj Kumar, Advocate
For the Respondent/s : Mr.Partha Sarthy, GA-4

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 10-04-2019

Heard learned counsel for the petitioner and

learned counsel for the State.

2. This application under Articles 226 and 227

of the Constitution of India has been filed by the petitioner for

issuance of a direction to the respondent authority to release

Tata Sumo Victa vehicle bearing registration no.BR-01D 6428

Chassis No. 446326BTZ90733, which has been seized in

connection with Khaira Nagara P.S. Case No. 146 of 2016 dated

29.06.2016 registered under Sections 420, 414, 467, 468, 471

and 120B of the Indian Penal Code.

3. In paragraph no.8 of the application, the

petitioner has stated that an application was filed in the court



below but the same has been dismissed vide order dated 06.11.2018. The aforesaid order dated 06.11.2018 has not been brought on record. The petitioner has not even challenged any order passed by the court below rejecting the application for release of the vehicle in question.

4. It is well settled position in law that once any vehicle is seized in connection with any criminal case, during pendency of the criminal case, if any application for release of the vehicle under Section 451 of the Code of Criminal Procedure is filed and the same has been rejected, the order has to be challenged in accordance with law under the statutory provisions prescribed under the Code of Criminal Procedure. The petitioner has not only not brought on record the order by which his application for release of the vehicle in question has been rejected but has also not disclosed as to which court has passed the order. Even the provision under which the application was filed has not been disclosed.

5. However, on careful reading of the application, it would appear that the order was passed by the court below in a revision application. Hence, an inference can be drawn that firstly an application was filed before the court of Magistrate and the order of Magistrate was challenged before



the revisional court. Neither the order of the Magistrate nor the order of the revisional court has been placed in the present application and an innocuous kind of prayer has been made that the respondents to direct the respondents to release the vehicle in question. Once the property is in custody of the court and the court has refused the prayer for its release, no direction can be issued to the respondent authorities to release the vehicle.

6. The application is thoroughly misconceived. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

Md. S/SKSuman.

AFR/NAFR	NAFR
CAV DATE	NA
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