

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.490 of 2019

Arising Out of PS. Case No.-4 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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Brite Rubber Processor Private Limited , A Company Registered Under The Companies Act having its registered office at Shakuntala Road, Agartala-799001, Tripura, through its Authorised Representative Mr. Rohtas Kumar Dakarwal, aged about 47 years (Male), Senior Branch Manager, Associated Road Carriers Limited, Patna, Son of Peerdan Dakarwal, resident of Village Indasar, P.O. Gothyan Bari, P.S. Rajgarh, District- Churu Rajasthan.

... .. Petitioner/s

Versus

The Union Of India Through The Intelligence Officer Narcotics Control Bureau Patna Zonal Unit, D and E Wing, Fouth Floor, Karpoori Thakur Sadan, Rajeev Nagar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Suraj Samdarshi
For the Respondent/s : Mr.S.D. Sanjay (Ad.S.G.)

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 08-07-2019 Heard learned counsel for the petitioner and the

learned counsel for the Union of India.

This Criminal Revision has been preferred against the order dated 16.03.2019 passed by Sessions Judge-cum-Special Judge, N.D.P.S., Patna in Special case No.7 of 2019 arising out of F. No. NCB/PZU/V/4/2019, by which he has dismissed the petition dated 7.2.2019 filed under Section 451 of Cr.P.C. seeking release of 20,000 kilograms of Natural Raw Rubber (ISNR 20 Grade) seized on 16.01.2019 by officials of Narcotics Control Bueau, Patna Zone.

The prosecution case, in short, is that 828 kgs of ganja



along with 20,000 kgs of natural raw rubber sheets loaded on truck was seized.

It has been submitted that without any knowledge and permission of the transport company, the driver and other co-accused loaded ganja in the said truck and used the natural raw rubber sheets to conceal it. It has further been submitted on behalf of the petitioner that the seized natural raw rubber sheets are perishable in nature having a shelf life of 90 days, as such required to be urgently released in favour of the petitioner otherwise same will become useless. In the entire prosecution report there is no allegation that the petitioner is concerned with the seized ganja in any manner.

Paragraph 9 of the counter affidavit filed on behalf of the Union of India is as follows :

“9. That, further, as per voluntary statement of the said Raj Kumar recorded u/s 67 of N.D.P.S. Act, 1985 wherein he revealed that he loaded/hired the consignment of natural rubber in the truck bearing Registration No. PB 12T 3185 through Transporter from M/s Brite Rubber Processor Private Limited, Agartala to M/s Indag Rubber Limited, Solan, Himachal Pradesh. One person met him at Petrol pump in Jirania, Agartala after loading rubber sheet. The person told Raj Kumar to shipping some packets of



Ganja in the said truck from Agartala to Bihar and he will pay Rs.4,00,000/- for this work. He also told that the packets of Ganja will be concealed between the natural rubber sheets and a person will also go with the truck for unloading. Further, Raj Kumar revealed that he fall in lure of money for paying due loan of the said truck and school fee of his children. On 10.01.19 night, they came in a safe place, brought the seized Ganja with some Labour from a four wheeler and concealed the seized Ganja between the natural rubber sheet, covered and make tight tripal over the truck.”

After hearing learned counsel for the petitioner and learned counsel for the Union of India and in view of law laid down by the 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 16.03.2019 passed by Sessions Judge-cum-Special Judge, N.D.P.S., Patna in Special case No.7 of 2019 arising out of F. No. NCB/PZU/V/4/2019 is set aside and the seized natural raw rubber sheets weighing 20,000 kgs valued at Rs.25,16,850/- are directed to be released in favour of the petitioner on furnishing bank guarantee of Rs.25,16,850/-.



With the aforementioned observation and direction,
the revision application is allowed.

(Sudhir Singh, J)

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