

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40619 of 2019

Arising Out of PS. Case No.-372 Year-2018 Thana- MAJHAULIA District- West Champaran

Shiv Shankar Mahto @ Shiv Shankar Prasad, son of Late Jagarnath Mahto
Resident of Village- Bagahi Baghamperpur, P.S.- Shrinagar Pujahan, District-
West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Superintendent of Police, West Champaran, Bettiah. West Champaran,
Bettiah.
3. The S.H.O., Majhaulia, P.S. West Champaran. West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Shrivastava
For the Opposite Party/s : Mr. Akshay Lal Pandit

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 15-07-2019 The petitioner, who is the owner of seized vehicle bearing Registration No. BR-22Q-7821 has challenged the order dated 09.10.2018 passed by the learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with Majhaulia P.S. Case No. 372 of 2018 whereby the prayer made on behalf of the petitioner for release of the vehicle as well as 50 bags of *Gur* has been refused.

After some arguments, learned advocate for the petitioner seeks to limit his prayer for the release of the



vehicle only.

The petitioner is the registered owner of the vehicle in question and is in possession of relevant documents showing his ownership and possession. The Court below did not accord any attention to the fact that there was no useful purpose in keeping the vehicle in question specially when no confiscation proceeding was initiated against the same.

Apart from this, what strikes this Court is that carrying *Gur* does not offend any of the control orders as *Gur* is not a controlled commodity.

In any view of the matter, in the absence of any evidence with respect to such bags of *Gur* having been stolen having been collected till date, no offence under Section 414 of the Indian Penal Code also can at all be said to be made out merely on the ground that the vehicle was seized with 50 bags of *Gur*.

Times without number, this Court has held that the vehicles which are seized in connection with a



criminal case be released in favour of the owner, unless it is found that such release would be prejudicial to the disposal of the case.

The Court below ought to have insisted upon some surety for the vehicle to be returned or brought to the Court should it be required in the disposal of the case. The vehicle, if subjected to vagaries of nature either in Court or police premises would have the effect of destroying the same which would be an economic loss to the nation. Nobody would benefit from such destruction of a vehicle.

Considering the aforesaid aspects, this Court directs the Court below to examine the papers relating to the vehicle (bearing Registration No. BR-22Q-7821) and on being satisfied that the petitioner is the registered owner of the same, pass orders releasing the same in favour of the petitioner. At the time of release, the petitioner shall be insisted for giving an undertaking that he shall not sell the vehicle till the time the case is



disposed of and shall bring it to the Court as and when required for the disposal of the case. The surety amount would be to the discretion of the learned Court below.

The prayer made with respect to the release of the vehicle, thus stands disposed of accordingly.

Since *Gur* is a perishable commodity but having a longer shelf-life, it would be open for the Magistrate to dispose of the same in accordance with the procedure prescribed under the act and the same could be auction-sold with an option to the petitioner to purchase the same.

The petition stands disposed of with the observation and direction above.

(Ashutosh Kumar, J)

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