

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1483 of 2019

Arising Out of PS. Case No.-94 Year-2019 Thana- DORIGANJ District- Saran

RAM BAHADUR SINGH Son of Vansharopan Singh Resident of Village -
Kasina, P.S.- Garkha, District - Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Saran. Bihar
2. The Superintendent of Police, Saran. Bihar
3. The Station House Officer, Doriganj Police Station, District - Saran at Chapra. Bihar
4. The Sub-Divisional Judicial Magistrate, Saran at Chapra. Bihar

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Raj Kumar Rajesh, Advocate Mr. Ranvijay Singh, Advocate
For the Respondent-State:		Mr. M. Nasrul Huda Khan, SC-1 Mr. Md. Irshad, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date : 08-11-2019

By way of the instant application preferred under Articles 226 and 227 of the Constitution of India, the petitioner has prayed for directing the respondents to release the vehicle bearing Registration No. BR-04F-6988, which has been seized in connection with Doriganj P. S. Case No. 94 of 2019 registered under Sections 420 and 379 read with 34 of the Indian Penal Code and Section 7 of the Essential Commodities Act, 1955.

2. It is submitted by the learned counsel for the petitioner that an application for release of the vehicle was filed before the Sub-divisional Judicial Magistrate, Saran at Chapra



but the same was rejected vide order dated 16.08.2019 on an erroneous ground that the seized vehicle can be released only by the District Magistrate as the case has been registered under Section 7 of the Essential Commodities Act. He submitted that till date, no confiscation proceeding has been initiated for confiscating the vehicle in question.

3. *Per contra*, learned counsel appearing for the State submitted that in case, no confiscation proceeding has been initiated, the petitioner has statutory remedy under Sections 397 and 401 of the Code of Criminal Procedure (for short 'CrPC') as also under Section 482 of the CrPC. He submitted that in view of availability of the statutory remedies under the CrPC, the instant application preferred under Articles 226 and 227 of the Constitution of India would not be maintainable.

4. I find substance in the submission of the learned counsel for the State.

5. In view of availability of the statutory remedy under Sections 397 and 401 as well as 482 of the CrPC for the relief prayed for in the present application, I am not inclined to entertain the present application preferred under Articles 226 and 227 of the Constitution of India.

6. Accordingly, the application is dismissed with



liberty to the petitioner to avail of the statutory remedies under the CrPC.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.11.2019
Transmission Date	13.11.2019

