

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.257 of 2019**

Arising Out of PS. Case No.-281 Year-2017 Thana- PATNA CITY CHOWK District- Patna

RAM NATH RAI Son of Basdev Rai R/o - Chapra Dumri, Dumari,
Samastipur, P.O. and P.S.-Hettanpur, District- Samastipur, Pin- 848506

... .. Petitioner

Versus

1. The State of Bihar
 2. The Superintendent of Police Patna. Bihar
 3. The Officer-in-charge, Chwok Thana Police Station, District- Patna. Bihar
- Respondent

Appearance :

For the Petitioner/s	:	Mr. Mayank Singh, Advocate Mr. Shiv Prasad Gupta, Advocate
For the Respondent/s	:	Mr. Satyavrat Verma, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 10-06-2020 This application has been placed for consideration by the order of the Hon'ble the Chief Justice through virtual court proceeding.

Heard learned counsel for the petitioner and learned APP for the State.

The petitioner in the present case is seeking to challenge the order dated 29.11.2017 passed by learned Sessions Judge/Special Judge, Patna in Special Case No. 138 of 2017 (State Vs. Anil Rai) by which he has refused to direct release the seized Bajaj Pulsar Motorcycle bearing registration No. BR01DD-9918 of this petitioner.

Learned counsel for the petitioner submits that in fact the petitioner had given his motorcycle to one of his relatives to



perform some essential work but a third person had taken away the said motorcycle from the relative of this petitioner, later on he was apprehended by Police and it is alleged that altogether 14 grams Ganja kept in 15 small puriys were found from the pocket of the pant of the apprehended person.

Learned counsel for the petitioner submits that on bare perusal of the first information report it would appear that the Ganja was recovered from the polythene which was kept in the pocket of the pant of the apprehended person.

Learned counsel submits that the learned Sessions Judge refused to direct release of the vehicle in question without appreciating the import of sub-section (3) of Section 60 of the Narcotic Drugs & Psychotropic Substances Act, 1985.

Learned counsel has drawn the attention of this Court towards the order dated 19.01.2018 passed by a learned co-ordinate Bench of this court passed in Cr. Revision No. 461 of 2017 in which while considering the case of release of a vehicle from which 1 and ½ kg of Ganja was recovered, learned co-ordinate Bench of this Court having noticed that there was lack of knowledge on the part of the petitioner about his vehicle being used for carrying narcotic substances directed release of the vehicle subject to furnishing a bond of Rs. 50,000/-.

Mr. Satyavrat Verma, learned APP for the State has



opposed the revision application as according to him, the vehicle is liable to be confiscated and hence, the learned Sessions Judge has rightly rejected the prayer for release of the vehicle.

Having heard learned counsel for the petitioner and learned APP for the State as also on perusal of the records, this Court finds that as per the prosecution story, 40 grams of Ganja was recovered from the polythene kept in the pocket of the apprehended person, apparently, in the dickey of the vehicle there was no Ganja and further that this petitioner claims that he had given his vehicle to one of his relatives from whom the apprehended person on the pretext of some work had taken, thus, the petitioner claims that he had no knowledge that his vehicle is likely to be used for carrying narcotic substance. Moreover, the vehicle was seized sometime in the year 2017, almost three years have gone thereafter and the Court has been informed that the vehicle is lying under open sky in the police station and by this time it has lost its road worthiness and ultimately till conclusion of the trial if the vehicle is allowed to remain as it is, neither the petitioner nor the State will be getting anything out of it, the petitioner is ready to provide adequate security bond to ensure that in case the vehicle is ultimately found liable to be confiscated, State may be compensated by the petitioner.

Under these circumstances, having noticed that similar



view has also been taken by a learned co-ordinate Bench of this Court, this Court directs that the vehicle in question be released in favour of the petitioner on petitioner's furnishing all the documents showing the ownership of the vehicle and on furnishing of surety bond of Rs. 40,000/- (forty thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge/Special Judge, Patna (the court below shall not insist for depositing cash or any bank guarantee).

The petitioner will also undertake that he will not dispose of the vehicle in question under any circumstance before the conclusion of the trial and shall produce the same as and when required.

This application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

