

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.359 of 2020

Arising Out of PS. Case No.-13 Year-2019 Thana- BAUNSI District- Banka

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FAILASUF @ FAILSUF S/o Yusuf Resident of Village- Mohammadiganj,
P.S.- Jalalbad (Rural), Distt- Shamli, State- Uttar Pradesh.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR, THROUGH THE CHIEF SECRETARY, GOVT. OF BIHAR, PATNA Bihar
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna. Bihar
3. The District Magistrate, Banka Bihar
4. The Superintendent of Police, Banka Bihar
5. The Officer - In- Charge, Baunsi, Banka. Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha
For the Respondent/s : Mr.A.G.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 14-09-2020 Heard.

This is an application seeking release of the truck of the petitioner bearing Registration No. HR55Q-3734 having Chassis No. MAT448201C0C04748 and Engine No. 21B84045755 which was seized in connection with Baunsi P.S. Case No. 13/2019, registered for the offence under Section 429 of the Indian Penal Code and Sections 11 (a)(b)(c) and (d) of the Cruelty to Animals Act, 1960.



From the perusal of the records, it appears that the vehicle was used for transporting livestock in large number. The vehicle was not commodious enough to comfortably accommodate such large number of livestock. Packing the animals in a cranned space amounted to cruelty to the animals. In that connection, a case was lodged and the vehicle was seized.

The petitioner claims to be the owner of the vehicle. The vehicle was not released in his favour on his demand on the ground that the offence is serious.

Mr. Prabhu Narayan Sharma, learned counsel for the State while defending the orders refusing to release the vehicle in favour of the petitioner submitted that the courts below have addressed themselves to the issue of release and have not found the case good enough for releasing the vehicle in question in favour of the petitioner.

The records reveal that the petitioner is the owner of the vehicle in question. No useful purpose



would be served in allowing the vehicle to be kept in the custody of the police. It would be subject to the vagaries of nature and would not remain useable later.

This Court in the aforesaid circumstances sets aside the order of the court below whereby the release of the vehicle in favour of the petitioner has been refused and directs that vehicle be released in favour of the petitioner but subject to the following conditions:

The petitioner shall furnish the Owner Book, Identity Card and all other documents which would show that the petitioner is the *bona fide* owner of the said truck and such documents should be to the satisfaction of the court below. If the documents are genuine and indicates that the petitioner is the owner of the vehicle, the same shall be released to him but only after drawing up a Panchnama of the vehicle.

At the time of release, an undertaking shall be obtained from the petitioner that till the time the case is finally decided, the vehicle shall not be sold.



A further undertaking shall be required to be given by the petitioner that the vehicle in question shall not be, in future, used for committing any offence whatsoever including the offence for which the subject FIR has been registered.

The petitioner shall ensure that in case of demand by the Court, the vehicle shall be produced in the Court at the trial.

The petition stands disposed of accordingly.

(Ashutosh Kumar, J)

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