

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1065 of 2019

Arising Out of PS. Case No.-160 Year-2019 Thana- RAHUI District- Nalanda

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LAXMAN YADAV Son of Raman Yadav Resident of Village - Maheshpur,
Taratar, P.S.and P.S.- Domchach, Distt - Kodram

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Nidhi Bharti D/o Sri Manharan Prasad Mining Development Officer, Mining Department, Distt - Nalanda.
3. S.H.O, Rahui Police Station Nalanda. Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar Singh No.10
For the Respondent/s : Mr.Sanjay Kumar Tiwary

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

4 22-01-2020 This revision application has been preferred by the petitioner against the order dated 04.07.2019 passed by the A.C.J.M., Biharsharif, Nalanda in connection with Rahui (Bhaganbigha) P.S. Case No. 160 of 2019 by which the prayer for release of seized Truck bearing Registration No. JH-12D-0789 has been refused.

Learned counsel for the petitioner has submitted that the petitioner happens to be owner of the vehicle in question. It is stated by learned counsel for the petitioner that confiscation proceeding has not been initiated and the vehicle in question is lying under the open sky in the police station.

Having heard learned counsel for the parties and taking note of the nature of seizure made as well as the fact that



the confiscation proceeding is yet to be initiated, I direct that the vehicle in question be released in favour of the petitioner on production of ownership and registration with respect to vehicle in question in his name before the Court below with one surety along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, as the case may be, shall also furnish the following affidavits/undertakings:

(i) That the vehicle in question has never been involved in any offence of similar nature in past and shall not indulge in similar offence in future:

(ii) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding, if any, and shall not alienate the vehicle during this period.

(iii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required.

(iv) Prior to release of the vehicle, a Panchanama would be prepared by the Court below wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and the same shall be kept on record so that in future, if so



required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama in course of trial.

The release shall be allowed within a period of 14 days from the date of production of ownership/registration papers supporting the claim of the petitioner together with one surety along with the bank guarantee to the extent of the value of the vehicle as indicated in the insurance amount and the undertakings as stated above. This release would, however, be subject to the final order passed in the confiscation proceeding as and when initiated.

With the observations and directions above, this revision petition is allowed and the impugned order dated 04.07.2019 passed by the A.C.J.M., Biharsharif, Nalanda in connection with Rahui (Bhaganbigha) P.S. Case No. 160 of 2019 is set aside.

(Arvind Srivastava, J)

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