

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19229 of 2019

Arising Out of PS. Case No.-347 Year-2018 Thana- CHIRAIYA District- East Champaran

RAMA KUMAR @ RAMA SAHANI @ RAM KUMAR SAHANI Son of
Raja Sahani Resident of Village- Akauna, P.O.- Misrauliya, P.S.- Chiraiya,
District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kundan Rathore, Adv.

For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 19-02-2021 Petitioner in the present case is aggrieved by and dissatisfied with the order dated 28.01.2019 passed by the learned 1st Additional Sessions Judge-cum-Spl. Judge, SC/ST, East Champaran Motihari in SC/ST-690/18 arising out of Chiraiya P.S. Case No.347/18 registered under Section 54(D), 509 of Indian Penal Code and Sections 3(1)(r)(w) of SC/ST Act whereby and whereunder the application filed on behalf of the petitioner for release of Motorcycle bearing Reg. No.BR-6AV-6334, Engine No.JA06EJFGM33171, Chasis No.MBLJA06AMFGM27704, one mobile set bearing IMEI No.868620030813469, IMEI2-868620030813477 (MI Mobile Model-Y-1) has been rejected.

Learned counsel for the petitioner submits that the petition seeking release of the motorcycle and mobile phone of the petitioner has been rejected by the learned court below on mere technicalities.



Learned counsel submits that from the documents placed on the record it would appear that the present petitioner is son of Raja Sahani. The Retail Invoice of the motorcycle is in the name of the petitioner and it shows the parent's name. He is an accused in this case and in the First Information Report itself the fathers name of the present petitioner is duly mentioned. It is submitted that despite there being so many materials on record the learned 1st Additional Sessions Judge, SC/ST, East Champaran, Mothari has rejected the application.

Learned APP for the State is present.

On perusal of the records, this Court agrees with the submissions of learned counsel for the petitioner that the impugned order suffers from several infirmities. The learned Special Judge has refused to release the motorcycle and mobile phone of the petitioner on completely irrelevant considerations. The name of the petitioner and his parent's name is duly mentioned in the F.I.R., he had filed the application before the learned court below in his own name, he had also filed the registration certificate of the motorcycle in which his name and the father's name were duly mentioned, if this was the position then the learned Special Judge should not have rejected the application for release of the motorcycle of the petitioner. Similarly the tax invoice of the one of the mobile phone is also in the name of the petitioner and, therefore, the mobile phone was liable to be released unless it was otherwise required for any other purpose.

From the impugned order it is also apparent that a police



report was called for and there is nothing to suggest that anything wrong was reported against the petitioner. In that view of the matter, the impugned order is hereby set aside. This Court allows the application of petitioner for release of the motorcycle and mobile phone.

Let the petitioner produce the invoices in his name before the learned court below and on such production the release order in respect of the motorcycle and mobile phone standing in the name of the petitioner shall be issued without any delay.

This application stands disposed off accordingly.

(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'.

