

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.142 of 2021

Arising Out of PS. Case No.-142 Year-2019 Thana- AMARPUR District- Banka

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RAJESH KUMAR BHAGAT Son of Laxmi Prasad Bhagat Resident of
Village-Amarpur, P.S.-Amarpur, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The Union of India
2. The State of Bihar through Principal Secretary, Home Deptt., Govt. of Bihar
Old Secretariat, Patna.
3. The District Magistrate, Banka.
4. The Superintendent of Police, Banka.
5. The Officer In Charge Amarpur (Fullidumar), Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajive Ranjan Singh, Adv.
For the Union of India	:	Mr. Shyam Bihari Singh, C.G.C.
For the State	:	Mr. Manoj Kumar, A.C. to G.P.4

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 16-11-2021 Heard learned counsel for the parties.

The petitioner has filed the instant application for a direction to release the tempo bearing Chasis no.MBX0003BFXB797689 in his favour which has been seized in connection with Amarpur (Fullidumar) P.S. Case no.142 of 2019. Further, prayer has been made for quashing the order dated 18.11.2019 passed by the learned Additional District Judge I, Banka in connection with Amarpur (Fullidumar) P.S. Case no.142 of 2019 and for other reliefs to which the petitioner may be found entitled.



The case of the petitioner is that his tempo was seized in connection with Amarpur (Fullidumar) P.S. Case no.142 of 2019 registered under the various sections of the N.D.P.S. Act. The petitioner filed a petition before the learned court below under sections 451 and 457 of the Cr.P.C. for release of the said vehicle. However, the same was rejected vide order dated 18.11.2019 (Annexure-3) by the learned Additional District Judge I, Banka.

It is submitted that till date the petitioner has not received any notice with respect to any confiscation proceeding with respect to the said vehicle. Referring to the order impugned, it is submitted that the learned court below without considering the contentions of the petitioner has rejected his prayer for release of the vehicle summarily, as such, a direction be issued for release of the said vehicle.

It is submitted by learned counsel for the State that there is no consideration on the merits of the case by the learned court below and the order impugned dated 18.11.2019 is a non-speaking order.

Having heard learned counsel for the parties and taking into consideration the facts of the case, on going through the order dated 18.11.2019, impugned herein, the Court is of the



opinion that the learned trial court has not applied its mind to the merits of the case or the contentions raised by the petitioner in his petition for release. The order dated 18.11.2019 is set aside.

This application is disposed of with liberty to the petitioner to file a fresh petition for release of the vehicle in question seized in connection with Amarpur (Fullidumar) P.S. Case no.142 of 2019. In case the same is filed within a period of two months, the learned court below shall consider the same on its own merit and dispose of the same within a period of three months from the date of its filing.

The application stands disposed of with the aforesaid observations and directions.

(Partha Sarthy, J)

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