

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37481 of 2020

Arising Out of PS. Case No.-282 Year-2020 Thana- MASHRAK District- Saran

Sonu Kumar Singh Son of Yogendra Singh Resident of Village- Karan
Kudariya Dumarson, P.S.- Masrakh, District- Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate

For the Opposite Party/s : Mr. Satendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 06-01-2021 Heard Mr. Binod Kumar, learned Advocate for
the petitioner and Mr. Satendera Prasad, learned APP for
the State.

This application is directed against the order dated 01.07.2020 passed by the learned Additional Sessions Judge-cum-Special Judge-II (Excise), Saran at Chapra in connection with Mashrakh P.S. Case No. 282 of 2020, whereby the prayer made on behalf of the petitioner for release of his vehicle bearing Registration No. BR-06GD-6793 has been rejected.

It has been submitted on behalf of the petitioner that he is the registered owner of the aforesaid vehicle and has in his possession the Road Tax receipt which has been paid up till 28.04.2029. The insurance of the vehicle also was valid till 01.05.2020.

It has been submitted that the petitioner, even though, was ready to furnish sureties to the satisfaction



of the court, the vehicle of the petitioner was refused to be released.

Perused the order dated 01.07.2020.

It appears that the court below has refused to release the vehicle on the ground that according to Section 60 of the Bihar Prevention and Excise Act, 2016 such vehicles which are used for conveyance of liquor are liable to be seized.

Learned counsel for the petitioner has submitted that the court below did not take into account that keeping the vehicle seized would serve no purpose. It has further been submitted that the confiscation proceeding has not yet been initiated.

Considering the aforesaid submissions on behalf of the petitioner, this Court is inclined to direct for release of the vehicle subject to certain conditions.

The order dated 01.07.2020 is, therefore, set aside.

The court below is directed to release the vehicle in favour of the petitioner on the condition of the petitioner furnishing a surety bond of Rs. 3 lakhs. The vehicle shall be released by the court below only on ascertaining the fact that the confiscation proceeding has not been initiated and that there is no cloud over the ownership and possession of the vehicle in favour of the



petitioner. All the documents concerning the ownership and possession of the vehicle shall be verified and only then the vehicle shall be released in favour of the petitioner.

In case the confiscation proceeding has been initiated, this order shall not be given effect to.

In that event, the confiscating authority shall conclude the proceedings positively within a period of three months.

While passing this order, this Court has taken into account the fact that keeping the vehicle seized would reduce its workability and that would be to the advantage of none.

The petitioner shall also give an undertaking that he shall not sell the vehicle to a third party till the time the connected case is not concluded finally and shall produce the vehicle in court as and when required. Any breach of the condition imposed in this order would render the order of release liable to be recalled.

The application stands allowed with the aforesaid observations.

(Ashutosh Kumar, J)

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