

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.130 of 2022**

Arising Out of PS. Case No.-95 Year-2021 Thana- BRAHMPURA District- Muzaffarpur

Munna Kumar S/o Jamadar Ray R/o village- Jitaura Ward No. 10, P.S.-  
Madhuban, District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Muzaffarpur Bihar
3. The Senior Superintendent of Police, Muzaffarpur Bihar
4. The Officer In Charge, Brahampura, P.S.- Muzaffarpur Bihar

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.Shanti Bhushan Singh, Adv.  
For the Respondent/s : Mr.Suman Kumar Jha, AC to AAG-3

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

5      29-08-2022                      Heard learned counsel for the petitioner and learned  
counsel for the State.

Petitioner in the present case is aggrieved by and dissatisfied with the order dated 29.10.2021 passed by learned Additional Sessions Judge-Vth, Muzaffarpur in NDPS Case No.23 of 2021 arising out of Brahampura P.S. Case No.95 of 2021 whereby whereunder the learned Sessions Judge has been pleased to reject the prayer of the petitioner for release of motorcycle bearing Reg. No.BR-05AM-6649, Engine No.AE8PL2400204 and Chesis No.MD634AE82L2P00089 in favour of the petitioner.

Learned counsel for the petitioner submits that by the



impugned order the learned court below has refused to release the motorcycle of the petitioner which has been seized in connection with the case lodged against his nephew Akhilesh Kumar and others. Learned counsel submits that nephew of the petitioner had borrowed the vehicle in question but it is alleged that he was found in possession of 12 puriya of charas. Learned counsel submits that petitioner is the owner of the vehicle. The vehicle is lying under open sky in the police station since 19.03.2021 and it is losing on it's value and road worthiness every day.

Learned counsel for the petitioner submits that till date there is no proposal for confiscation of the motorcycle in question and trial of the case is not likely to take place in near future.

Learned counsel for the State has though opposed this application but does not dispute that the vehicle in question has not been confiscated. It is also not disputed that there is no proposal for confiscation so far. The petitioner is not an accused in the case.

Having regard to facts and circumstances of the case finding that the petitioner is not an accused in the case, there is no proposal for confiscation of the vehicle in question and at



this stage the vehicle is lying under open sky as a result whereof it is losing on its value and road worthiness, following the principles laid down by the Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai vs. State of Gujarat** reported in **(2002) 10 SCC 283** followed by **General Insurance Council and Others Vs. State of Andhra Pradesh and Others**, reported in **2010(6)SCC 768**, this Court sets aside the impugned order and directs release of the vehicle in question on the petitioner satisfying the court below with the documents of his ownership of the vehicle and submission of a surety bond of Rs.50,000/- (not in cash or bank guarantee). Such release shall be subject to the condition that the petitioner shall not deal with the vehicle in question in any form or manner, he shall not transfer it and would not encumber otherwise and that he would produce the vehicle in question as and when required by the learned trial court. An undertaking to this effect shall be submitted by the petitioner in the learned court below.

This application stands disposed of 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'.

