

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.228 of 2022

Arising Out of PS. Case No.-151 Year-2019 Thana- KRITYANAND NAGAR District-
Purnia

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GAURAV KUMAR ROY, Son of Sushil Roy @ Sushil Kumar Roy, Resident
of Village - Gorhiyare Chowk Ward No. 18, P.S. - Forbesganj, District -
Araria.

... .. Petitioner

Versus

1. THE STATE OF BIHAR THROUGH THE HOME SECRETARY, GOVT.
OF BIHAR, PATNA
2. The District Magistrate, Purnea.
3. Superintendent of Police Purnea.
4. Deputy superintendent of Police, Purnea.
5. Saroj Kumari Wife of Sudhakar Jha Drugs Inspector, Purnea 3, Resident of
Village - Narma Navarpatti, P.S. Ali Nagar, District - Purnea.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar,Adv.
For the Respondent/s : Mr.Suman Kumar Jha, AC to AAG-3.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 28-09-2022 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner in the present case is seeking quashing of
the order dated 16.01.2021 passed in Special Case No. 14 of
2021/ CIS No. 14 of 2019 arising out of K Nagar P.S. Case no.
151 of 2019 by the learned Special Judge NDPS Act, Purnea
whereby and where under the petition filed by the petitioner for
releasing of seized motorcycle bearing registration no. BR-
38F/9220, Chasis no. MD2A11CZ2EC F06000 and Engine No.
DHZCEF 85432 has been rejected.



Learned counsel for the petitioner has submitted that as per allegation the petitioner and co-accused were arrested while they were transporting 177 bottles Codeine cough syrup containing 100 ml in each kept in a bag through motorcycle bearing registration no. BR-38F9220.

It is submitted that the seizure was made on or about 03.05.2019 since then the motorcycle in question is lying under open sky in the premises of the Police Station. It is submitted that the trial of the case is not likely to be concluded in near future.

It is submitted that with every passing day, the motorcycle is losing its road worthiness and there is every possibility that over the period either most of the valuable parts of the motorcycle would have been stolen away or would not be in a position to be used.

Referring to the judgment in the case of 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, learned counsel submits that no significant purpose would be served in keeping the motorcycle in the Police Station till conclusion of the trial. Petitioner is ready to abide by such terms and condition on



which release may be ordered.

Learned counsel representing the State opposed the prayer of the petitioner.

In the given facts and circumstances of the case, considering that the motorcycle is lying under seized condition and under open sky in the Police Station for the last about three years and the trial of the case is not likely to be concluded in the near future, this Court directs the release of the motorcycle bearing registration no. BR-38F/9220, Chasis no. MD2A11CZ2EC F06000 and Engine No. DHZCEF 85432, subject to the petitioner furnishing a surety bond (not in cash or in form of bank guarantee) to the extent of the value of the motorcycle in question as per the last insurance value of the motorcycle, in the learned court below. The petitioner shall also furnish an undertaking that during pendency of the trial court he will not transfer it and would not encumber otherwise and shall produce the same as and when required by the competent Court and in course of trial will not question the identity of the motorcycle. The Panchnama of the motorcycle shall also be prepared in presence of the two witnesses and the same shall be kept on the records of the learned trial court.



Let the entire exercise be carried out within a period of seven days from the date of submission of the surety bond 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'.

