

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51788 of 2021

Arising Out of PS. Case No.-387 Year-2018 Thana- KHAIRA District- Jamui

MD. ANBAR SHEIKH @ CHHOTU Son of Md. Ishrafil Sheikh Resident of
Mohalla - Jamui Thana Chauk, P.S. and District - Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar, Adv.

For the Opposite Party/s : Mr. Dr. Ajeet Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 12-05-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The present application has been filed for quashing of the order dated 25.07.2019 passed by the learned Sessions Judge, Jamui, in Cr. Rev. No. 126 of 2019, whereby and where under, the learned Sessions Judge has refused to interfere with the order passed by the learned Chief Judicial Magistrate, Jamui by which the Bajaj Platina motorcycle bearing Registration No. GJ-16LL/5851 of the petitioner has been refused to be released vide order dated 24.04.2019.

The brief facts of the case is that while the informant was going on the Ambulance, 6-7 persons including the petitioner intercepted the Ambulance and snatched away cash from the driver and other persons. They also took away mobiles



and in road robbery they have looted motorcycles, mobile and cash from several other persons.

Learned counsel for the petitioner submits that the petitioner has been made accused in this case on the basis of his confessional statement made before the police during course of search and his motorcycle has been seized and accordingly, seizure list was prepared. He further submits that nothing incriminating has been recovered from the possession of the motorcycle.

Learned counsel for the petitioner submits that the learned revisional court as well as the learned Magistrate has not appreciated the material available on record and passed the impugned order in a mechanical manner. He further submits that the motorcycle in question is lying in the open sky in the police station and no purpose would be served to the prosecution while keeping the motorcycle of the petitioner in the abandoned condition. He further submits that the order impugned suffers from infirmity and deserved to be quashed.

What appears to this Court is the instant application under Section 482 of the Cr.P.C. is confined to the extent of release of the motorcycle of the petitioner from which nothing incriminating has been recovered for which



the impugned orders have been challenged.

On the other hand, learned counsel for the State submits that the motorcycle in question is a matter of exhibit in the case, therefore, if the Court would be persuaded with the submission advanced by the learned counsel for the petitioner, the motorcycle can be released with the specific condition that the petitioner shall produce the same before the Court below as and when required so that trial of the case may not hamper.

Having heard learned counsel for the parties and taking note of the nature of allegation levelled against the petitioner and having gone through the orders passed by the learned Magistrate as well as the learned revisional Court, this Court comes to a conclusion that learned courts below have erred in passing the impugned orders as this Court is of view that no purpose would be served in detaining the motorcycle of the petitioner keeping under the open sky in the police station even if the same is a matter of exhibit. Therefore, this Court directs that the vehicle in question be released in favour of the petitioner on production of ownership and registration with respect to vehicle in question in his name before the Court below with one surety along with a Bank Guarantee or original title deed of immovable property situated within the district to the extent of



the value of the vehicle as indicated in the insurance document. The petitioner while submitting the surety and the bank guarantee or the original title deed, as the case may be, shall also furnish the following affidavits/undertakings:

(i) That the vehicle in question has never been involved in any offence of similar nature in past other than the present case and shall not indulge in similar offence in future:

(ii) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the trial and shall not alienate the vehicle during this period.

(iii) The petitioner shall furnish an undertaking to produce the vehicle before the trial court as and when required.

(iv) Prior to release of the vehicle, a Panchanama would be prepared by the Court below wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and the same shall be kept on record so that in future, if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama in course of trial.

The release shall be allowed within a period of 15 days from the date of production of ownership/registration papers supporting the claim of the petitioner together with one surety along with the bank guarantee to the extent of the value of



the vehicle as indicated in the insurance amount and the undertakings as stated above.

With the observations and directions above, the order dated 24.04.2019 passed by the learned Chief Judicial Magistrate, Jamui and also the order dated 25.07.2019 passed in Cr. Revision No. 126 of 2019 by the learned Sessions Judge, Jamui are quashed and this criminal miscellaneous application stands allowed.

(Rajesh Kumar Verma, J)

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