

Arising Out of PS. Case No.-84 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.  
District- East Champaran

- ... .. Petitioners

... .. Opposite Parties

For the Petitioner/s : Mr. Rakesh Kumar No.1, Advocate  
For the Respondent/s : Mr.Dr. Krishna Nandan Singh (A.S.G.)  
For Dept of Customs : Mr. Anshuman Singh, Advocate  
Mr. Ranjay Kumar, Advocate

2      22-12-2022      Heard learned counsel for the petitioners and Mr.  
Anshuman Singh, learned counsel for the Department of



Customs.

Petitioners in the present case are seeking to set aside the order dated 21.10.2022 passed by learned 1<sup>st</sup> Additional Sessions Judge -cum- Special Judge, East Champaran at Motihari in N.D.P.S. Case No. 84 of 2021 whereby and whereunder the prayer for release of the seized clothes has been rejected.

Learned counsel for the petitioners submits that the case of these petitioners would be covered by the order of this Court passed in Cr. Rev. No. 587 of 2022 and Cr. Rev. No. 573 of 2022 copies of which have been brought on the record as Annexure '5' to the revision application.

A perusal of the same would show that those two revision applications also arose out of the orders passed by learned 1<sup>st</sup> Additional Sessions Judge -cum- Special Judge, East Champaran at Motihari in NDPS Case no. 84 of 2021 and the subject matter of the release were the seized clothes only.

Although, learned counsel for the Department of Customs has prayed for an adjournment of the matter to enable him to file a counter affidavit, this Court finds that in identically situated matters, the Department of Customs did not file any counter affidavit despite time granted to them and ultimately



after the order as contained in Annexure '5' was passed by this Court, they have released the clothes as informed to this Court.

A perusal of the revision application and the judgments of this Court rendered in earlier two Revision Applications make it clear that the case of the petitioners is identically situated.

In the aforesaid view of the matter, this Revision Application is being disposed of in similar terms as have been done by this Court in Cr. Rev. No. 573 of 2022. The operative part of the said order reads as under:-

“Considering the facts and circumstances of the case, the nature of the clothes which are likely to get damaged and would lose its value over the period and further that the trial of the NDPS case is not likely to be concluded in near future and in similar situation in respect of one of the traders the same court has directed release of the clothes, this Court directs release of the Sarees/clothes as per serial no.4 of the seizure list in favour of the petitioner subject to the verification of documents of the consignment in question in her name and on furnishing surety bond (not in form of cash or bank guarantee) to the extent of the value of the Sarees/clothes with an undertaking that she will abide by the order of the learned trial court, if any, passed in the confiscation case upon conclusion of the trial.

Let the entire exercise of verification be completed within 15 days from the date of communication of this order.

Before this Court parts with this order, it must be brought to the notice of the learned Presiding Officer of the court that apparently his order as contained in Annexure-5 and the order impugned in the present case seem to be



inconsistent. This is to be looked into in future.

This application stands disposed of accordingly.”

The impugned order is hereby set aside. The official respondents are directed to release the seized clothes on similar terms and conditions as have been done in the case of others in Cr. Rev. No. 573 of 2022.

This revision application stands disposed of accordingly.

**(Rajeev Ranjan Prasad, J)**

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