

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No. 548 of 2021**

Arising Out of PS. Case No.-24 Year-2019 Thana- DULHIN BAZAR District- Patna

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1. SANJAY KUMAR Son of Ishvar Dayal Singh @ Rajeshwar Singh Resident of Village - Neema, Police Station - Goh, District - Aurangabad.
  2. Ajeet Singh Son of Arbind Singh Resident of Village - Mannu Bigha, Police Station - Haspur, District - Aurangabad.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Director General of Police, Bihar, Patna. Bihar
3. The Senior Superintendent of Police, Patna. Bihar
4. The S.H.O. Dulhin Bazar Police Station, District - Patna. Bihar

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Dr. Manoj Kumar  
For the Respondent/s : Mr. M. Nasrul Huda Khan

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**

**JUDGMENT AND ORDER**

**C.A.V.**

**Date : 17-08-2023**

The petitioners have filed the present writ application, challenging the order, dated 01-04-2019, passed by the learned 3<sup>rd</sup> Additional Chief Judicial Magistrate, Danapur, in Dulhin Bazar Police Station Case No.24 of 2019, order, dated 15-7-2019, passed by the learned 6<sup>th</sup> Additional sessions Judge Danapur, in Criminal Revision No. 231 of 2019 and the order, dated 22-12-2020, passed by the Judicial Magistrate, 1<sup>st</sup> class, Danapur in Dulhin Bazar Police Station Case No. 24 of 2019, registered for the offences punishable under Sections 414/420/467/471 of the Indian Penal



Code and Section 11(1)(D) of the Prevention of Animal Cruelty Act. The petitioners have further prayed for a direction to the respondents to release the seized cattle and their calves in their favour.

2. The brief facts, giving rise to present writ application, is that on 31-01-2019, the Assistant Sub Inspector of Police, Dulhin Bazar Police Station, submitted a report to the Station House Officer, Dulhin Bazar Police Station, stating therein that during vehicle checking, near Ullar More, he stopped a white-coloured pick-up van, bearing registration no. BR-01GC/1341. After checking the van, he found three buffaloes and three calves in bad, suffocating and unconscious condition. On interrogation, the driver of the said vehicle, Manoj Kumar, and two other persons, who were also sitting in the said van, told that the cattle were purchased from Ainkhan Mela, popularly called as Kasim Chak Weekly Cattle Fair of Nagendra Sardar and further said that two of the cattle were purchased for Rs.35,051/- and Rs.24,800/-. One of the accused, namely, Arvind Singh, handed over two yellow coloured receipts, bearing receipt no. 141 and receipt no. 101, showing purchase of two cattle from the said fair. The Pick-up van along with buffaloes and calves were seized by the informant and seizure list, to this effect, was prepared. Upon the



said report, Dulhin Bazar Police Station Case No. 24 of 2019 was registered.

3. Learned Counsel for the petitioners submits that learned District Courts have failed to appreciate that the petitioners are the bona fide purchases of the cattle from the cattle fair and are the real owner of the seized cattle, which were seized while returning from the cattle fair, by the police without any fault on their part.

4. Learned Counsel further submits that the application for release of the seized cattle before the learned 3<sup>rd</sup> Additional Chief Judicial Magistrate, Danapur, was rejected by order, dated 01-04-2019, on the ground that the petitioners have not produced any material document and have failed to show any documentary evidence in their favour for release of the cattle.

5. Learned Counsel further submits that the revision application preferred against the aforesaid order was also dismissed on the ground of ownership inasmuch as the courts have found that the receipts do not bear any signature of seller and registration number of the fair is also missing in the said receipts.

6. Learned Counsel further submits that a further attempt by the petitioners for release of the cattle in there favour also failed



when learned Judicial Magistrate, First Class, Danapur, rejected the prayer of the petitioners vide order dated 22-12-2020.

7. Learned Counsel next submits that all the District Courts committed serious error by arriving at the conclusion that the token receipt nos. 101 and 141 are not genuine inasmuch as the person, who has put his signature on the receipts, has sworn an affidavit, stating therein that he has been working as an agent for the cattle fair, duly appointed by the owner of the cattle fair. The affidavit of the selling agent has been annexed as Annexure 5 to this writ application. He further submits that the seized cattle are not stolen, but have duly been purchased for a valuable consideration from the cattle fair and the seized cattle are the source of livelihood of the petitioners.

8. A counter affidavit has been filed on behalf of the State respondents stating therein that the Police Officer are not the competent authority to release the cattle and calves, more so, the prayer of the petitioners has been rejected by the District Courts on three occasions.

9. A report was called for from the Station House Officer, Dulhin Bazar Police Station, and the same was submitted vide memo no.1246/23, dated 18-07-2023 (Annexure-A). According to the report, the Investigating Officer entrusted the



seized cattle under the jimmenama to Bindu Devi, Sanjay Yadav and Chowkidar Brijnandan Paswan. The case has been found true during the investigation and charge sheet has been submitted on 09-03-2020 against five accused persons. During investigation, it has come to light that one buffalo and one calf given to Bindu Devi died on 21-03-2019. Similarly, one buffalo and one calf given to Sanjay Yadav also died due to illness. However, post-mortem of the two buffaloes and one calf was conducted; but post-mortem of one dead calf, which was in the jimmenama of one Sanjay Yadav was not carried out. Now, only one buffalo and one calf is surviving, which was given to Chowkidar Brijnandan Paswan.

**10.** Learned Counsel for the state reiterates the statement made in the counter affidavit in course of his argument.

**11.** I have heard counsel for the parties concerned and have gone through the materials available on records.

**12.** From the First Information Report and the seizure list, it appears that signature of petitioner no.1 is there on the seizure list, meaning thereby the cattle were seized from the custody of the petitioner no. 1. The police authority has also seized token receipts from the possession of petitioner no.1. It is the specific case of the petitioners that after purchase of the cattle for



the valuable consideration, the petitioners were transporting the cattle on the pick-up van to their home. The affidavit of the selling agent of the cattle fair also supports the claim of the petitioners that they are bona fide purchasers of the cattle.

**13.** From the counter affidavit, it appears that by natural process, two buffaloes and two calves have died in police custody, for which post-mortem has also been done.

**14.** Nobody has control upon the natural death and it is not the case of the petitioners that the cattle died due to the negligence and/or atrocities/cruelty made to them by the police or the persons under whose jiminama the cattle were kept.

**15.** In order to save the surviving cattle and calf from any further damage and/or death, in my opinion, it is expedient and in the interest of justice to release the said cattle and calf in favour of the petitioners.

**16.** Accordingly, the order, dated 01-04-2019, passed by the learned 3<sup>rd</sup> Additional Chief Judicial Magistrate, Danapur, in Dulhin Bazar Police Station Case No.24 of 2019, the order, dated 15-7-2019, passed by the learned 6<sup>th</sup> Additional sessions Judge Danapur, in Criminal Revision No. 231 of 2019 and the order, dated 22-12-2020, passed by the Judicial Magistrate, 1<sup>st</sup> class, Danapur in Dulhin Bazar Police Station Case No. 24 of 2019, are



hereby set aside and the learned District Court is directed to release the cattle, in question, in favour of the petitioners within a period of two weeks from the date of receipt/production of a copy of this order, subject to the following conditions:-

- (1) That the petitioners shall furnish sureties of Rs. 10,000/- to the satisfaction of the learned District Court;
- (2) That before handing over the cattle to the petitioners, a detailed and proper *Punchnama* of the said cattle, after taking its photograph, shall be prepared;
- (3) That the petitioners shall also execute bond that the cattle, in question, shall be produced as and when required.

17. With the aforesaid directions and observations, this application is allowed.

18. There shall be no order as to costs.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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