

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14621 of 2023

Arising Out of PS. Case No.-340 Year-2021 Thana- JAGDISHPUR District- Bhagalpur

MD. NASEEM ARZOO S/o Md. Shameem R/o Gali No. 5, Bashishth Chariali, P.S.- Bashishth Chariali, Guwahati, Distt- Kamroop Assam-781029 through its power of attorney holder namely Sayeed Alam Haque male aged about 32 years, Son of Late Noor Islam Haque, R/o House no. 24, Dhali Gaon, P.O. and P.S.- Dhali Gaon, Distt- Chirang, Assam- 783385.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Cholamandalam Investment and finance Company Limited (Chola) through Competent Authority Dare House, Ist Floor, No. 2, N.S.C. Bose Road, Parrys, Chennai-600001

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Gautam Kumar Kejriwal, Advocate
For the Opposite Party/s	:	Mr.Uday Pratap Singh, APP
For Cholamandlam	:	Mr. Daynand Singh, Advocate
		Mr. Kashyap, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 25-07-2023 Heard learned counsel for the petitioner, learned APP

for the State and learned counsel for the Cholamandlam

Finance Company Limited.

2. The following order was passed by this Court on
16.03.2023:-

“Heard learned counsel for the parties.

The learned counsel for the petitioner in a peculiar facts of the case prays his application for interim relief in the light of judgment of Supreme Court in the case of Sunderbha I Ambalal Desai vs. State Of Gujarat (2002) 10 SCC 283, he has further submitted that he is paying the installment to the financier and it is very difficult for him to pay the installment without plying the truck. The truck was seized on 08.10.2021 and since then it is lying with the police. The wood seized with the truck has already been



released by the court below. The only ground on which the prayer of the release of the petitioner has been rejected is that the petitioner is driver, khalasi and has not taken bail they are accused in a case. Learned counsel for the petitioner has enclosed the F.I.R. and order-sheet from which it appears that the aforesaid statement of the police that the person owner, driver and khalasi are accused in the case is false. In these circumstances, following the judgment of the Supreme Court in Sunderbha 1 Ambalal Desai vs. State Of Gujarat (supra), this is a fit case for grant of interim release of the vehicle which is lying in the police station which is being spoiled. The petitioner is directed to furnish bond of Rs. 20,000,00/- for interim release of the truck in question i.e., Truck bearing Registration No. NL01AD-2657, this release is subject to the condition is that the till the final disposal of the case, the petitioner will not sell the truck in question.

The learned counsel for the petitioner is also directed to add the Cholamandalam Investment and Finance Company Limited as opposite party no. 2 in this case and will serve copy upon Sri Dayanand Singh, an Advocate who regularly appears for Cholamandlam Investment and Finance Company in this Court. The Cholamandlam Investment and Finance Company may also file his counter affidavit in this case if they so desire.

Learned counsel for the State is also directed to file counter affidavit within ten days.

Put up this case on 13th July, 2023.”

3. Learned counsel for Cholamandlam Finance Limited has appeared and submitted that payments are being made regularly to the Cholamandalam Finance Limited and therefore, Cholamandalam Finance Limited has no objection to the release of vehicle in question in favour of petitioner.

4. Though the order of interim release of said vehicle is dated 16.03.2023, the possession of vehicle has not



been taken by the petitioner. The Vehicle shall be released by the police in favour of petitioner.

5. The petitioner shall pay the installments to Cholamandalam Finance Limited regularly failing which Cholamandalam Finance Limited can take appropriate steps against the petitioner in accordance with law.

6. With the aforesaid observation and direction, this application is allowed. The impugned order dated 15.11.2022 passed by learned Chief Judicial Magistrate, Bhagalpur in Jagdishpur in connection with Jagdishpur (Bypass) P.S. Case No. 340 of 2021 and all consequential proceedings arising out of aforesaid F.I.R are hereby quashed in the interest of justice.

(Sandeep Kumar, J)

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