

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24323 of 2015**

Arising Out of PS. Case No.-515 Year-2014 Thana- SIWAN CITY District- Siwan

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Vinod Kumar Sharma Son of Late Harischandra Sharma Manager of M/s Maa
Annapurna Transport Agency Ltd, Siwan Branch Moh

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Akhilesh Kumar Mishra, Commercial Taxes Officer, Siwan Circle, Siwan.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Rabindra Prasad Mr. Rajiv Kumar Singh, Adv. Mr. D.N. Tiwary, Adv. Mr. Anuj Kumar, Adv.
For the Opposite Party/s	:	Mr.Jharkhandi Upadhyay App

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 14-02-2023 The present application has been filed for quashing

part of the order dated 30.03.2015 passed by the Sessions Judge,

Siwan in Cr. Misc. No. 05 of 2015 by which he has imposed

certain pre-conditions for release of goods seized on

10.12.2015.

The short grievance of the petitioner is that this Court

may modify the following part of the order:-

*“So after having discussed the above mentioned
facts, in my view the order impugned is not in accordance
with law and has not been passed in according with the
spirit of section 457 Cr.P.C. and it is liable to be set aside
and the present circumstances justifying the claim of
releasement of the present petitioner, in relation to the
seized article excepts crackers, which relates to FIR Siwan
(T) P.S. Case No. 516 of 2014, which was registered under
Explosive Substance Act and their forensic chemical test is*



to be made at forensic Science Laboratory to verifying that whether it comes under the definition of explosive or not. Accordingly, the order impugned stands set aside and the learned Chief Judicial Magistrate is directed to make a proclamation as to releasement of seized article except crackers in the State Newspaper and in National Newspaper and if any person within a period of one month after publication does not come for making claim to seized articles then the seized articles except crackers can be ordered to be released in favour of the present petitioner after taking the security of the value of the seized articles and also on these conditions that whenever the article after releasement will be required by the court for any purpose then the present applicant shall produce them and if any other person after releasement comes before the Court praying for the possession of such article then the present petitioner either shall produce the concerned article or satisfy his claim by praying money in proportion of the value of his seized articles and also on this condition as to making videography of the seized articles at the cost of the petitioner by the Court's official, so that it can be used in evidence if any of these articles may not be produced before the Court at the requirement and the learned C.J.M. can impose any other condition, which he thinks fit."

The learned counsel for the petitioner has submitted that goods which are sought to be released are Clothes, Medicine, Jeera, Plastic Articles, Electric Goods, Ayurvedic Medicine, Hair Brush, Blankets and Book.

Some of the goods which are sought to be released are perishable in nature and their validity has already expired. In these conditions, considering the judgment of the Hon'ble Apex Court in the Case of ***Sundarbhai Ambalal Desai Vs. State of Gujarat AIR 2003 SC 638***, the application of the petitioner is allowed with the following directions:-



1. The goods shall be released in favour of the petitioner after preparing detailed Punchnama of such goods.

2. Taking photographs of such articles and taking proper security.

3. The petitioner is given liberty to sell the goods in question in the market and will submit the receipts and will also give an undertaking that in case if he is directed to deposit the value of the goods which have been sold then he will do so.

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

(Sandeep Kumar, J)

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