

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.454 of 2023

Arising Out of PS. Case No.-44 Year-2022 Thana- SUGAULI District- East Champaran

Raj Kumar, Son of Jawahar Prasad, Resident of Village- Mai Sthan Sugauli
Bazar, P.S.- Sugauli District- East Champaran, Motihari (Bihar).

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Home Department, Govt. of Bihar, Patna
2. The DSP, Motihari East Champaran District.
3. The SHO, Sugauli Police Station, Sugauli East Champaran, District- Motihari

... .. Respondents

Appearance :

For the Petitioner : Mr. Shyam Sundar Kumar, Advocate
For the Respondents : Mr. Sheo Shankar Prasad, SC-8

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 11-12-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner in this case is seeking the following
reliefs:-

“(i) For issuance of mandamus to release
the vehicle (Hyundai Car) of the petitioner
bearing Registration No. BR06AP9750,
Chassis No. MALA351AL FM3 67611,
(Wrongly mentioned as
MHLA351ALFM367611 in seizure list)
Engine No. G3HAFM330492 which has
been seized by the respondents concerned
in connection with Sugauli P.S. Case No.
44/2022 registered on 23.1.2022.

(ii) To set aside the order dated 19.1.2023
passed in Sugauli P.S. Case No. 44/22,



passed by Ld. Court of CJM East Champaran at Motihari (Annexure-8 to this writ petition).

(iii) For any other relief(s) for which the petitioner would be found entitled by this Hon'ble High Court in facts & circumstances of the case.”

3. Learned counsel for the petitioner submits that the vehicle in question has been seized by police in connection with Sugauli P.S. Case No. 44 of 2022 dated 23.01.2022 under Sections 363, 365, 366 and 34 of the Indian Penal Code.

4. Learned counsel for the petitioner submits on instruction that the police has not found sufficient materials against the petitioner and he has instruction to say that police has submitted a final form.

5. Learned counsel submits that in any case the victim girl has already been recovered and the main accused Munna Kumar @ Munna Kumar Gupta has been granted bail by this Court in Cr. Misc. No. 33992 of 2022. The victim girl has not taken name of this petitioner.

6. Learned counsel submits that the vehicle in question was seized on 21.06.2022 and at this stage the vehicle is being misused by the police personnel as they are using the vehicle for their own purposes. It is submitted that the vehicle is



likely to lose its worth over the period because of its misuse and lying under the open sky in the police station. He is ready to abide by such terms and conditions which may be imposed by this Court for purpose of grant of release of the vehicle.

7. Learned counsel for the State has though opposed this application, considering the facts and circumstances of the case wherein it is submitted that the vehicle in question is lying in the police station under open sky and it is losing its road worthiness each and every day and the petitioner is ready to abide by such terms and conditions which may be imposed by this Court, this Court sets aside the impugned order dated 19.01.2023 passed by learned C.J.M., East Champaran, Motihari and directs that if the petitioner appears in the learned court below and submits the document of ownership of vehicle in question together with any valuable security (not in cash or bank guarantee) worth Rs.5,00,000/- and furnishes two local sureties (within the jurisdiction of Bihar), the vehicle in question shall be released in favour of the petitioner, subject to the following conditions:-

(i) That during pendency of the trial, the vehicle in question shall not be sold or otherwise encumbered and transferred in favour of any other person,



(ii) The petitioner shall furnish an undertaking that he will produce the vehicle as and when required in course of trial,

(iii) At the time of release of vehicle, a *panchnama* shall be prepared and the same will be kept on the record which will not be questioned by the petitioner in course of trial.

8. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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