

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21452 of 2019

Arising Out of PS. Case No.-172 Year-2018 Thana- ALAMGANJ District- Patna

Yugal Kishore Singh Navin Son of Late Ram Nandan Singh, Resident of Village-Meenapur Bazar Samity, East of Manik Complex, Haripur, Vaishali, P.S-Hajipur (Town), District-Vaishali at Hajipur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nawal Kishore Singh, Advocate
For the Opposite Party/s : Mr. Zainul Abedin, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 18-10-2023

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The learned counsel for the petitioner submits that the present quashing application has been filed seeking quashing of the order dated 30.05.2018 passed by the learned Sessions Judge, Patna in Special Case No. 38 of 2018 arising out of Alamganj P.S. Case No. 172 of 2018 registered under Sections 20 and 22 of the N.D.P.S. Act, whereby the petitioner's petition under Section 451 of the Cr.P.C for release of Alto Car bearing Registration No. JH.01K1561, Chassis No. MA3EYD81500451610 and Engine No. F8DN3140273 which was seized, has been



rejected.

3. The learned counsel for the petitioner next submits that the learned Trial Court while rejecting the application for release of the vehicle relied heavily on Section 60 of the N.D.P.S. Act. It is further submitted that the vehicle seized is liable to be confiscated under Section 60 of the N.D.P.S. Act, yet by virtue of Section 36(c) of the N.D.P.S. Act and Section 51 of the N.D.P.S. Act, the provisions contained in Section 451 or 457(1) of the Cr.P.C. would be applicable as none of the provisions of the N.D.P.S. Act are inconsistent with the provisions of the Cr.P.C. and hence in deserving cases, the right of interim custody provided under Sections 451 or 457(1) of the Cr.P.C. cannot be denied and if the vehicle is allowed to remain in police station till the trial is not concluded, it will be rendered waste and thus would be contrary to the decision of the Hon'ble Supreme Court in the matter of ***Sunderbhai Ambalal Desai vs. State of Gujarat*** reported in (2002) 10 SCC 283.

4. The learned counsel next submits that an F.I.R. came to be instituted alleging therein that a secret



information was received by the informant that a white colour Alto Car is standing at Hathia Bagan for a long time in a suspicious condition, accordingly, the informant reached the place of occurrence and in presence of two independent witnesses, the car was searched when 16 kgs of *Ganja* was recovered from the car packed in 8 bundles, each bundle weighting 2 kgs of *Ganja*.

5. The learned counsel next submits that petitioner is the owner of the vehicle and is not an accused in the case and relies on an order of this Court vide order dated 04.09.2023 passed in Cr. Misc. No. 41623 of 2023, Kauleshwar Ray vs. the Union of India to submit that the case of the petitioner is covered by the aforesaid judgment of the Court in the case of Kauleshwar Ray vs. the Union of India, it is next submitted that till date the vehicle in question has not been confiscated and is still lying in the police station.

6. The learned A.P.P. opposes the quashing application.

7. Considering the submissions made by the learned counsel for the petitioner and taking into



considering the order dated 04.09.2023 in Cr. Misc No. 41623 of 2023, the Court comes to a considered conclusion that the vehicle deserves to be released, as such, the order dated 30.05.2018 passed by the learned Sessions Judge, Patna in Special Case No. 38 of 2018 arising out of Alamganj P.S. Case No. 172 of 2018 registered under Sections 20 and 22 of the N.D.P.S. Act, whereby the petitioner's petition under Section 451 of the Cr.P.C seeking release of his vehicle as recorded hereinabove, is hereby quashed and the said vehicle is directed to be released on the following conditions:-

(i) the petitioner shall furnish personal bond of Rs. 1,00,000/- (Rupees One Lakh) with one solvent surety in the like amount to the satisfaction of the learned Trial Court, thereafter the aforesaid car shall be handed over to the petitioner on proving ownership of the vehicle;

(ii) whenever required by the competent court, the car shall be produced on petitioner's expense at the place directed;

(iii) at the time of release of the truck, the authorities shall ensure to take note of the chassis number, engine



number and registration number of the car in presence of the petitioner and obtain his signature and keep the same on record;

(iv) the petitioner shall not alter or change the condition of the car in any manner during pendency of the case;

(v) the petitioner shall not create any third party right over the said vehicle; and

(vi) in the event, all or any of the aforesaid conditions are found to be violated, the respondent shall be at liberty to move this Court for seeking modification of the order passed by this Court releasing the vehicle.

(Satyavrat Verma, J)

Nilmani/-

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	19.10.2023
Transmission Date	N.A

