

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39262 of 2022

Arising Out of PS. Case No.-277 Year-2021 Thana- CHHATAUNI District- East Champaran

SATYENDRA VERMA S/o Late Durga Prasad R/o village- Indira Nagar,
Bhawanipur Jirat, P.S.- Chhatauni, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Adv.

For the Opposite Party/s : Mr. Yogendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 31-10-2023 1. 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 15.02.2022 passed by the learned Sessions Judge-cum-Special Judge, East Champaran at Motihari, in NDPS Case No. 91 of 2021 arising out of Chhatauni P.S. Case No. 277 of 2021 dated 10.07.2021, whereby the application filed by the petitioner under Section 451 of the Cr.P.C seeking release of the motorcycle bearing Registration No. BR 05 AQ 0216, Chassis No. MD6E4AE84M2E00381 and Engine No. AE8EM2900153, which was seized, has been rejected.

3. The learned counsel for the petitioner submits that the petitioner is the owner of the vehicle in question and is



father of Rahul and Rahul came to be implicated in the aforesaid Chhatauni P.S. Case No. 277 of 2021 along with one Aniket Pandey, wherein it was alleged that from possession of Rahul 980 gram of charas along with country made pistol was recovered and from Aniket Pandey, two live cartridges and a motorcycle was recovered.

4. The learned counsel next submits that the petitioner was completely unaware being father of Rahul that the vehicle would be misused in the manner as alleged in the F.I.R., it is next submitted that being owner of the vehicle, the petitioner filed an application under section 451 Cr.P.C. seeking release of the vehicle in question on the ground that the petitioner is not an accused in the case and the vehicle belongs to him and no useful purpose would be served by keeping the vehicle in police station rather with passage of time the vehicle will get destroyed.

5. 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 (3) 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 be decision of the Hon'ble Supreme Court in the matter of **Sunderbhai Ambalal Desai vs. State of Gujarat reported in (2002) 10 SCC 283.**

6. The learned counsel next submits that petitioner is the owner of the vehicle and is not an accused in the case and further relies on an order of this Court vide order dated 18.10.2023 passed in Cr. Misc. No. 21452 of 2019, Yugal Kishore Singh Navin vs. the State of Bihar to submit that in the similar matter this Court was pleased to direct for release of the vehicle in question.

7. Considering the submissions made by the learned counsel for the petitioner and taking into consideration the order dated 18.10.2023 in Cr. Misc No. 21452/2019, the Court comes to a considered conclusion that the vehicle deserves to be released, as such, the order dated 15.02.2022 passed by the learned Sessions Judge-cum-Special Judge, East Champaran at



Motihari, in NDPS Case No. 91 of 2021 arising out of Chhatauni P.S. Case No. 277 of 2021, whereby the application filed by the petitioner under Section 451 of the Cr.P.C seeking release of the seized vehicle was rejected, 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. 20,000/- (Rupees Twenty thousand) with one solvent surety in the like amount to the satisfaction of the learned Trial Court, thereafter the aforesaid vehicle shall be handed over to the petitioner on proving ownership of the vehicle;

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

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

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