

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.200 of 2021

Arising Out of PS. Case No.-235 Year-2019 Thana- PALIGANJ District- Patna

SUNIL KUMAR @ SUNIL YADAV @ SUNIL KUMAR YADAV Son of
Anant Yadav Resident of Village- Mahmmadpur, P.S.- Paliganj, District-
Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The District Magistrate Patna, Bihar Bihar
3. The Superintendent of Police, Patna Patna.
4. The Officer-In-Charge, Paliganj, Patna. Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shailesh Kumar Singh, Advocate
For the Respondent/s : Mr. Manish Kumar, SC-5

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 19-06-2023 Heard Mr. Shailesh Kumar Singh, learned
counsel for the petitioner and Mr. Manish Kumar, SC-5 for
the State.

The petitioner is retired BSF personnel who has
been made accused in the First Information Report bearing
Paliganj Police Station Case No. 235/2019 registered under
Section 414, 25(1-b)A, 26 and 35 of the Arms Act. Along
with the petitioner, his brother Anil Kumar @ Anil Yadav
and other persons were also made accused and were



arrested. From the possession of the petitioner one rifle, one revolver and 45 cartridges of rifle, 21 cartridges of revolver and some cash about Rs.8,00,000/- were recovered. Similarly, one 30-06 sporting rifle with magazine, 60 pieces of live cartridges and cash of Rs. 7,00,500/- were recovered from possession of brother of the petitioner and from other accused persons one rifle and cartridges were recovered.

The present case has been filed for release of the seized articles i.e. rifle, revolver, cartridges as well as cash in favour of the petitioner. The petitioner had preferred an application before the learned Sub Divisional Judicial Magistrate, Danapur, under Section 451 Cr. P.C. which was rejected by learned Sub Divisional Judicial Magistrate, vide its order dated 22.2.2020.

Relying upon the order passed by the learned Sub Divisional Judicial Magistrate dated 7.6.2022 (Annexure-A) to the supplementary affidavit filed by the petitioner, learned counsel for the petitioner submits that the learned Magistrate has passed the order for release of rifle, revolver, cartridges etc. in favour of the brother of the petitioner, who is an accused in the same First Information Report pursuant



to the Remand Order passed by the learned Sessions Judge, Danapur, in Cr. Revision No. 54 of 2021.

Learned counsel submits that prayer of his brother for release of the articles in his favour was earlier rejected by the learned Sub Divisional Magistrate, vide its order dated 22.02.2020 and his brother who is similarly situated to the petitioner preferred a revision before the learned Sessions Judge, Danapur, and the petitioner has approached this Court by way of present writ application.

Taking into consideration the submission made by the petitioner and the fact that the case of the brother of the petitioner was remanded for reconsideration before the learned Sub Divisional Judicial Magistrate, Danapur, the present writ application is disposed of with a direction to the learned Sub Divisional Judicial Magistrate, Danapur, to reconsider the prayer of the petitioner for release of rifle, revolver, cartridges etc. in accordance with law.

Accordingly, the impugned order dated 22.02.2020 passed by the Sub Divisional Judicial Magistrate, Danapur, is quashed and matter is remanded back before the learned Sub Divisional Judicial Magistrate,



Danapur for passing fresh order in accordance with law
within a reasonable period of time.

(Anil Kumar Sinha, J)

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