

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12028 of 2021

Arising Out of PS. Case No.-309 Year-2017 Thana- CIVIL LINE District- Gaya

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Rajeev Ranjan Singh, son of Krishna Kumar Singh, Resident of Village -
Malviya Nagar, Mahadeva Road, P.S.- Mahadeva, Distt.- Siwan.

... .. Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Home, Govt. Of Bihar Bihar
2. Superintendent of Police, Gaya. Bihar
3. S.H.O., Civil Line, Gaya. Bihar
4. The Investing Officer of Gaya Civil Lines P.S.- Case No.309 of 2017.

... .. Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Ansul, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 05-04-2023

This application has been filed for quashing of the order dated 27.09.2019 passed by learned Additional District & Sessions Judge, VIII, Gaya, in Sessions Trial No.6 of 2018/21 of 2018, arising out of Gaya Civil Lines P.S. Case No. 309 of 2017, by which the learned Court below has rejected the application filed by the informant for release of the seized items.

2. As per the F.I.R., the informant is the Chief of the UAE Exchange & Financial Services Limited, Gaya Branch. It is alleged that on 16.07.2017 at about 4:30 P.M. while he was busy in his work, three persons came in the branch and took the guard of the branch in their custody. Thereafter, six



other persons came and looted an amount of Rs.1,24,625/- cash, 99 packets of gold ornaments weighting 2.76 kg., mobile phones and other items from the branch office. The police after investigation arrested some accused persons and also recovered looted articles. Since the gold ornaments are of the customers, the informant filed an application for release of the seized items. However, the learned Court below vide impugned order dated 27.09.2019 rejected the said application by holding that the same are exhibit items and the informant may submit application after evidence.

3. Learned counsel for the petitioner submits that the petitioner is the power-holder and is authorized by the UAE Exchange & Financial Services Limited (For short “the Company”) to litigate in the present matter. He further submits that the Police after thorough investigation found that it is a case of *dacoity* and submitted charge-sheet in the case on 03.11.2017 and after finding sufficient materials, the learned Court below took cognizance against the accused persons.

4. Learned counsel for the petitioner also submits that the petitioner, on behalf of the company, has claimed the release of the seized items which were looted in the *dacoity* committed in the Gaya branch office of the Company.



He further submits that the only ground for rejection of the application of the informant for release of the seized items is that the seized items are required for being exhibited during trial and therefore, they cannot be released.

5. Learned counsel for the petitioner further submits that because of non-release of the seized articles the company is not in a position to give back the ornaments to its customers and it is affecting the reliability and credibility of the company and it is also hampering future business prospect of the company. He further submits that the petitioner is the sole claimant of the seized articles and there is no other claimant of the seized property.

6. Learned counsel for the petitioner has relied upon a decision of the Hon'ble Supreme Court in the case of *Sunderbhai Ambalal Desai &Ors. v. State of Gujarat* reported in *(2002) 10 SCC 283* and submits that the powers under Section 451 Criminal Procedure Code should be exercised expeditiously and judiciously.

7. Learned counsel for the State has opposed the prayer of the petitioner and has submitted that the informant has been given liberty to file a fresh application after the seized articles are exhibited during the trial.



8. I have considered the submissions of the parties. It is not in dispute that the articles which have been seized by the Police were looted from Gaya Branch office of the Company and the looted articles belong to the company.

9. The Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai & Ors. v. State of Gujarat (supra)*** has held as under:-

“To avoid such a situation, in our view, powers under Section 451 Cr.P.C. should be exercised promptly and at the earliest.

Valuable Articles and Currency Notes with regard to valuable articles, such as golden or silver ornaments or articles studded with precious stones, it is submitted that it is of no use to keep such articles in police custody for years till the trial is over. In our view, this submission requires to be accepted. In such cases, Magistrate should pass appropriate orders as contemplated under Section 451 Cr.P.C. at the earliest.

For this purposes, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:-

- (1) preparing detailed proper panchanama of such articles:*
- (2) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and*
- (3) after taking proper security.”*



10. Considering the facts of this case, I am of the view that the impugned order rejecting the application for release of the seized items is in teeth of the law laid down by the Hon’ble Supreme Court in the case of ***Sunderbhai Ambalal Desai & Ors. v. State of Gujarat (supra)***. Moreover, the seizure list is already with the police and that can be used in the trial of the accused persons.

11. In view of the above, this application is allowed and the impugned order dated 27.09.2019 passed by learned Additional District & Sessions Judge, VIII, Gaya, in Sessions Trial No.6 of 2018/21 of 2016, arising out of Gaya Civil Lines P.S. Case No.309 of 2017, is hereby quashed.

12. The Court below is directed to release all the seized items which are being claimed by the petitioners and the details of the same has been given in the seizure list. While releasing the seized items, the trial Court will get the photographs of the seized articles for future use and also take proper surety from the petitioner.

(Sandeep Kumar, J)

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AFR/NAFR	A.F.R.
CAV DATE	N/A.
Uploading Date	27.07.2023.
Transmission Date	27.07.2023.

