

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50963 of 2023

Arising Out of PS. Case No.-295 Year-2023 Thana- AURANGABAD TOWN District-
Aurangabad

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M/S DHL eCOMMERCE (INDIA) PRIVATE LIMITED, A COMPANY INCORPORATED UNDER THE INDIAN COMPANIES ACT THROUGH ITS AUTHORISED REPRESENTATIVE NAMELY SHRI SHASHI KUMAR, HAVING ITS REGISTERED OFFICE SITUATED AT 702, 7TH FLOOR, TOWER B, 247 PARK, L.B.S. MARG, VIKHROLI (WEST) MUMBAI, MUMBAI CITY, MAHARASHTRA (INDIA)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Saket Gupta, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 07-10-2023 Heard learned counsel for the petitioner and Mr. Jharkhandi Upadhaya, for the State.

2. The learned counsel for the petitioner submitted that an application seeking provisional release of the vehicle in question was filed under Section 451 Cr.P.C. but the same were rejected by an order dated 30.06.2023 passed by the learned Chief Judicial Magistrate, Aurangabad in connection with Aurangabad Town P.S. Case No. 295 of 2023.

3. The learned counsel for the petitioner submits that the vehicle, in question, was seized on the ground that beef was found in the vehicle. It is next submitted that petitioner is the company incorporated under the Companies Act, 2013 and is a



juristic person and it can sue and can be sued, it is next submitted that petitioner being a juristic person had executed the power of attorney in favour of one Shashi Kumar through one of its Director for getting the vehicle release provisionally. The learned counsel next submits that vehicle, in question, is registered in the name of the company and in the F.I.R., the owner of the vehicle was arrayed as an accused.

4. The learned counsel for the petitioner submits that the learned C.J.M., Aurangabad while rejecting the application for release of the vehicle, in question, provisionally observed that since owner of the vehicle is also an accused and he has not surrendered, as such the vehicle was not released.

5. The learned counsel for the petitioner submits that since the vehicle, in question, was registered in the name of the Company and Company being a juristic person is entitled for getting the vehicle released and the reasoning assigned by the learned C.J.M. Aurangabad for not releasing the vehicle provisionally that owner of the vehicle had not surrendered and sought bail appears to be fallacious. Learned counsel next submits that the Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai vs. State of Gujarat (2002) 10 SCC 283** has held that it is of no use to keep such seized vehicle



at the police station for long period, it is for the Magistrate to pass appropriate order immediately by taking appropriate bond and guarantee as well as security of return of the said vehicle if required at any point of time, this can be done pending hearing of the application for return of such vehicle. It is next submitted that the vehicle, if not released, will remain in the police station and by efflux of time will get destroyed. It is further submitted that petitioner is a transport Company and the customer had hired the vehicle for transportation and as such the Company was completely unaware that the vehicle has been hired for committing such an illegality, it is next submitted that even from perusal of the allegation, as alleged in the F.I.R., it would manifest that the reason for seizing the vehicle was that beef was found but then it was not the petitioner who was knowing the beef was to be carried by the vehicle rather the customer who had hired the vehicle, misused the vehicle in the manner as alleged.

6. Learned A.P.P., Mr. Jharkhandi Upadhaya, in compliance of the order dated 19.09.2023 has filed a counter affidavit on behalf of the S.S.P., Aurangabad which is taken on record. From perusal of the counter affidavit, it does not manifest that the S.S.P. is objecting the release of the vehicle.



7. Considering the submission made by the learned counsel for the petitioner, the vehicle bearing Registration No. MH-04-JK-6037 which has been seized in connection with Aurangabad P.S. Case No. 295 of 2023 is directed to be released on the following conditions :-

(i) the petitioner shall furnish personal bond of Rs. 10,00,000/- with one solvent surety in the like amount to the satisfaction of the learned trial court, thereafter the aforesaid vehicle, Tata truck (refrigerator van) shall be handed over to the petitioner on proving ownership of the vehicle;

(ii) whenever required by the competent court, the truck 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 truck in presence of the petitioner/ in presence of the person authorized by 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/ Tata truck (refrigerator van) 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 respondents shall be at liberty to move this Court for seeking modification of the order passed by this Court releasing the vehicle.

The order dated 30.06.2023 passed in connection with Aurangabad Town P.S. Case No.295 of 2023 passed by C.J.M., Aurangabad is hereby quashed.

The application stands allowed.

(Satyavrat Verma, J)

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