

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58844 of 2023

Arising Out of PS. Case No.-168 Year-2021 Thana- PUNPUN District- Patna

Om Prakash Sharma S/o Sharda Singh R/o Village- Indrapur, P.S-
Makhdumpur, Distt.- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Mines Inspector, Patna, Veer Chand Patel Marg, P.S- Kotwali, Distt.-
Patna. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Madhukar Anand, Adv.

For the Opposite Party/s : Mr. Shyameshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 19-10-2023 1. Heard learned counsel for the petitioner and learned
APP 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 10.05.2023, passed by Shri Upendra Sah, Judicial Magistrate 1st Class, Masaurhi, in connection with Punpun P.S. Case No.168/2021, whereby the application filed on behalf of the petitioner under section 451 Cr.P.C., seeking release of his vehicle bearing registration no. BR-25-GA-1290, has been rejected.

3. The learned counsel for the petitioner submits that Punpun P.S. Case No.168/2021 came to be instituted by one



Rajendra Kumar Singh (Mines Inspector), alleging that he had seized two vehicles bearing registration no. BR-25G-5285 and BR-01-GG-9131 and both the vehicles after being seized was parked in B.S.C.P.L. compound, it is next alleged that one of the vehicles bearing registration no. BR-25G-5285, which was seized, was removed and in place of the said vehicle, BR-25-GA-1290 was parked on 12.07.2021 at 11.30 P.M., as would manifest from the CCTV footage.

4. The learned counsel for the petitioner next submits that the petitioner has no concern with the vehicles which were initially seized, it is next submitted the petitioner is completely unaware that as to how his vehicle was parked and the vehicle bearing registration no.25G-5285 was removed from the compound, where it was kept after seizure, it is next submitted that the petitioner is a contractor and the vehicle, which is lying in the aforesaid compound, is the only vehicle which is his source of livelihood.

5. The learned counsel next submits that on coming to know that his vehicle has been seized, as such, he filed an application before the learned trial court, seeking release of his vehicle, which was rejected by order dated 30.03.2022, thereafter again the petitioner moved before the learned trial



court, seeking release of the vehicle, which again was rejected by an order dated 23.06.2022.

6. The learned counsel submits that the petitioner challenged the order dated 30.03.2022, by which, his application seeking release of his vehicle was rejected by the learned trial court by filing Cr. Revision No. 280/2022, in the Court of learned Additional Sessions Judge-1st, Masaurhi. It is submitted that the Cr. Rev. No.280/2022 was disposed of by the order dated 21.12.2022, wherein the learned Revisional Court recorded that the petitioner had not challenged the order dated 26.06.2022 i.e. the subsequent order by which his application seeking release of the vehicle was rejected but then remanded the matter back to the learned trial court with a direction to the petitioner to file a fresh application seeking release of the vehicle.

7. The learned counsel submits that in compliance of the order dated 21.12.2022, the petitioner filed a fresh application before the learned trial court, seeking release of the vehicle, under section 451 Cr.P.C., which came to be rejected by an order dated 10.05.2023, which is impugned in the present quashing application.

8. The learned counsel submits that the learned trial



court refused to release the vehicle, in question, on the report of the I.O. of the case, wherein he had pleaded that the T.I.P. of the vehicle in question till date has not been done.

9. The learned counsel submits that if the vehicle, will be allowed to remain in custody of the Department of Mines, the same with passage of time, 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.**

10. The learned APP opposes the quashing application.

11. Considering the submissions made by the learned counsel for the petitioner and the fact that the vehicle of the petitioner was not initially seized rather the vehicle, which was seized was taken from the place of occurrence and in its place, someone kept the vehicle of the petitioner, this amply demonstrates that the vehicle of the petitioner was not alleged of committing any illegal act. Thus, the order dated 10.05.2023, passed by the learned Judicial Magistrate 1st Class, Masaurhi, in connection with Punpun P.S. Case No.168/2021, whereby the application filed on behalf of the petitioner under section 451 Cr.P.C., seeking release of the vehicle, has been rejected is



hereby quashed and the vehicle is directed to be released on the following conditions:-

(i) the petitioner shall furnish personal bond of Rs. 10,00,000/- (Rupees ten lacs) 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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