

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1781 of 2023

Arising Out of PS. Case No.-162 Year-2023 Thana- CHAPRA MUFFASIL District- Saran

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Raja Babu Gupta S/O Shiv Kumar Gupta R/O Mohalla- Near Kachehari
Parisar, P.O- Head Post Office, Pant Nagar, P.S- Nagar Kotwali, Distt.-
Gonda, State- Uttar Pradesh, Pin- 271001.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Home,
Govt. Of Bihar, Patna. Bihar
2. The Superintendent Of Police, Saran At Chapra Bihar
3. The S.H.O, Chapra Mufassil Police Station, Saran At Chapra Bihar
4. The District Transport Officer, Saran At Chapra. Bihar
5. The Motor Vehicle Inspector, Saran At Chapra. Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ankur Prakash Sinha, Advocate
For the Respondent/s : Mr.Md. Irshad, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 22-12-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Petitioner in this case is aggrieved by and
dissatisfied with the order dated 20.07.2023 passed by the
learned District & Sessions Judge, Saran at Chapra in Criminal
Revision No.179 of 2023 whereby and whereunder the learned
Sessions Judge has refused to interfere with the order dated
17.06.2023 passed by the learned Chief Judicial Magistrate,
Saran at Chapra in Mufassil P.S. Case No.162 of 2023.

3. Learned counsel for the petitioner submits that the



petitioner is the owner of the bus bearing Reg. No. UP17T-6264 which met an accident. The driver of the bus was arrested on the spot. The bus was seized, therefore, the petitioner being owner of the vehicle filed an application for release of the bus during pendency of the trial.

4. Learned counsel submits that the application for release of the vehicle has been rejected by learned C.J.M., Saran at Chapra only for the reason that the driver of the vehicle had not produced his driving license and the owner of the vehicle had given the name of a new driver.

5. Learned counsel submits that the learned Sessions Judge has also refused to interfere with the order without appreciating the submission of the petitioner that the person, namely, Niklesh Kumar who was apprehended by the public was the cleaner of the vehicle and the driver of the vehicle is one Shiv Kumar Gupta who had fled away due to fear of the mob.

6. Learned counsel submits that in any case the reason provided for rejection of the application for release of the vehicle cannot be said to be a proper and relevant reason for the purpose of release of the vehicle. It is, thus, a case of rejection of the application by the learned court below on irrelevant



considerations.

7. Mr. Irshad, learned AC to SC-1 appears for the State and has opposed this application. It is submitted that because the name of the driver of the bus differed, the application for release has been rejected.

8. Having heard learned counsel for the petitioner and the State as also on perusal of the records, this Court is of the considered opinion that the order passed by the learned C.J.M. as well as the learned Sessions Judge, Saran at Chapra suffer from the vice of the irrelevant consideration. There is no dispute that the petitioner is the owner of the vehicle. Allegedly the vehicle has met an accident in which one person has been killed. A police case has been registered and the trial of the case is likely to take a long time. In such circumstance, if the bus is allowed to remain under open sky at a lonely place that too without any security, not only the bus will lose its road worthiness which will be a loss in terms of the gross national product but would also lose its road worthiness over the period. No fruitful purpose is likely to be served by keeping the vehicle stranded on the road side as the experience shows that the vehicles become useless lying over years on the road side of the police station without any security. Some times even the parts of



the vehicles are stolen away. These aspects of the matter has been completely missed out by the learned court below.

9. This Court, therefore, sets aside the impugned orders and directs release of the vehicle in question subject to the petitioner producing documents of ownership of the vehicle and he furnishes an indemnity bond for the value of Rs. 10,00,000/- (rupees ten lacs) (not in form of cash or bank guarantee), an undertaking in the learned trial court that in course of trial he would not encumber the vehicle in any mode or manner, shall not transfer the same to any other person and no third party right shall be created in any form and further undertaking that he would not question the identity of the vehicle and further before release of the vehicle the court below shall prepare a *Panchnama* which will be kept on the record and shall not be questioned by the petitioner in course of trial.

10. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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