

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.331 of 2024

Arising Out of PS. Case No.-516 Year-2023 Thana- BARUN District- Aurangabad

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1. PANKAJ KUMAR S/O NAGINA CHAUDHARY R/O VILLAGE- SAW, P.S- AMAS, DISTT.- GAYA.
 2. DEEPAK KUMAR S/O BADHO CHOUDHARY R/O VILLAGE-SHIKARPUR (DANAPUR) P.S- SHAHPUR, DISTT.- PATNA.
 3. KUNDAN KUMAR S/O SHANKAR CHOUDHARY R/O VILLAGE-PARAIYA, P.S- PARAIYA, DISTT.- GAYA.
 4. AMIT KUMAR @ AMIT KUMAR CHOUDHARY S/O VIJAY CHOUDHARY R/O VILLAGE- JAIPUR, P.S- GURUA, DISTT.- GAYA.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. THE DIRECTOR GENERAL OF POLICE, BIHAR PATNA. BIHAR
3. THE SENIOR SUPERINTENDENT OF POLICE, AURANGABAD. BIHAR
4. THE SUPERINTENDENT OF POLICE, AURANGABAD. BIHAR
5. THE DY. SUPERINTENDENT OF POLICE, AURANGABAD. BIHAR
6. THE STATION HEAD OFFICER, BARUN POLICE STATION, AURANGABAD. BIHAR
7. THE SUB-INSPECTOR OF BARUN POLICE STATION, AURANGABAD. BIHAR
8. THE INVESTIGATING OFFICER OF BARUN P.S CASE NO. 516/2023, AURANGABAD. BIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Mukul Kumari
For the Respondent/s : Mr. Vinay Kirti Singh, G.A.-2
Mr. Ranjan Prakash, A.C. to G.A.-2

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 25-06-2024 Heard the parties.

2. The present application has been filed for setting aside the order dated 19.01.2024 passed by the Special Judge, Excise- 1st Aurangabad in connection with Barun P.S. Case No. 516 of 2023 registered for the offence punishable under Sections



414/420/467/468/471/120(B)/34 of the Indian Penal Code and Section 30(a) of the Excise Act and also for the following reliefs:

(i) To set aside the order dated 19.01.2024 passed by the court of Special Judge of Excise, 1st Aurangabad in Barun P.S Case No. 516 of 2023, G.R No. 1271 of 2023 which has been lodged for the offence u/s 414, 420, 467, 468, 471, 120(B)/34 of the I.P.C and section 30(a) of Bihar Prohibition and Excise Act 2018.

(ii) To direct the respondent authority to release the seized cash Rs. 1,72,400/- (One Lakh Seventy two thousand and four hundred Rupees), and two mobile phone (i) I Phone 14 128 Blue colored bearing IMEI no. 350654410772776, 350654410894638 and (ii) Samsung mobile A23 bearing IMEI No. 357688951688192, in favour of petitioner no. 1 namely Pankaj Kumar which belongs to him.

(iii) To direct the respondent authority to release the seized VivoJ-I mobile phone bearing IMEI No. 86876406292573231, 868764062925724130 in favour of petitioner no. 2 namely Deepak Kumar which belongs to him.

(iv) To direct the respondent authority to release the seized Oppo F 19 Pro mobile phone bearing IMEI No. 8668990566725292 in favour of petitioner no. 4 namely Kundan Kumar which belongs to him.

(v) To direct the respondent authority to release the seized seized Oppo Reno 6 5G mobile phone bearing IMEI No. 865924054070615, 865924054070607 in favour of petitioner no. 3 namely Kundan Kumar which belongs to him.

3. This application has been filed for release of the



five mobile phones and Rupees One Lakh Seventy-two Thousand Four Hundred.

4. The petitioner is accused in Barun P.S. Case No. 516 of 2023 in which the recovery was of 180 ml. of liquor.

5. From the Scorpio vehicle, five mobile phone and Rupees One Lakh Seventy-two Thousand Four Hundred was recovered.

6. It has been submitted by the learned counsel for the petitioner that the Scorpio vehicle has been released in favour of the petitioner.

7. Learned counsel for the State has not been able to support the impugned order by which the application for release of the mobile and cash has been recalled by the Court below.

8. In view of the law laid down by the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat reported in (2002) 10 SCC 283*** this application is allowed.

9. The mobile phone and the cash shall be released in favour of the petitioner on furnishing sureties of Rupees Two Lakhs.

10. The order dated 19.01.2024 passed by the Special Judge, Excise- 1st Aurangabad in connection with Barun



P.S. Case No. 516 of 2023 registered for the offence punishable under Sections 414/420/467/468/471/120(B)/34 of the Indian Penal Code and Section 30(a) of the Excise Act is hereby set aside.

(Sandeep Kumar, J)

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