

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 235 of 2024

In
Criminal Writ Jurisdiction Case No 1133 of 2023

Arising Out of PS. Case No.-570 Year-2019 Thana- BARACHATTI District- Gaya

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Shyam Bisnoi @ Shyam Bishnoi @ Shyam Beniwal S/o Gordhan Bisnoi @
Gordhan Ram Beniwal @ Gordhan Beniwal R/o Plot No. 10, Khokhriya,
Bera Pyau Ke Samne, Ranaji Ka Bagh, Jodhpur, P.S. - Jodhpur, Distt. -
Jodhpur, Rajasthan

... .. Petitioner/s

Versus

1. The State of Bihar, through the Director General of Police, Bihar at Patna
2. The District Magistrate, Gaya at Gaya
3. The Superintendent of Police, Gaya at Gaya
4. The Station House Officer, Barachatti Police Station at Barachatti, Distt. -
Gaya
5. The Kotak Mahindra Bank Lim., Jaipur, through its Manager, at 3rd floor,
57 Krishna Tower Sardar The Kotak Mahindra Bank Lim., Jaipur, through
its manager, at 3rd floor, 57 Krishna Tower Sardar Patel Marg C Scheme,
Jaipur 302001, Rajasthan
6. Balwant Ram S/o Majita Ram Jee R/o Nato Ki Dhadhiya, Malung, Tahsil -
Ansiya, P.S. - Matanya, Distt. - Jodhpur, Rajasthan

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Uma Shankar Singh
For the Respondent/s : Mr.Gp.5

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 03-09-2024

Heard.

2 This petition has been preferred by the petitioner being
aggrieved with the order dated 17.02.2023 passed by the learned
Sessions Judge -cum- Special Judge, NDPS Act, Gaya in NDPS
Case No 17 of 2020 arising out of Barachatti PS Case No 570 of



2019 whereby and whereunder the application submitted by the petitioner for releasing the truck bearing registration No RJ-19-GF-2597 has been disposed of directing the petitioner to move such application before the DM, Gaya.

3 Facts of the case are that the petitioner is the owner of the seized vehicle bearing registration No RJ-19-GF-2597 which has been seized by the Barachatti PS for the alleged offence punishable under Sections 20/22 of the NDPS Act. It is alleged that at the time of search, the vehicle was being driven by the co-accused Balwant Ram and at the time of search, from the said truck, total 1538 kilograms of **Doda** was recovered. Since the petitioner herein is the registered owner of the said vehicle, therefore, for releasing the said vehicle, the petitioner made an application under Section 451 of the Cr P C before the learned Special Judge which has been disposed of vide its impugned order dated 17.02.2023. Hence, this revision petition.

4 Learned counsel for the petitioner would submit that since the petitioner is registered owner of the said vehicle, therefore, he is entitled to get temporary possession of the said vehicle but the learned Special Judge, without deciding that application, disposed of the matter directing the petitioner to move an application for releasing the said vehicle before the concerned



DM as the proceeding of confiscation of the said vehicle is pending before the DM, Gaya. According to the counsel, the learned Special Judge out to have decided the application but the learned Special Judge, without deciding the application, disposed of the said application which is not in accordance with law.

5 Perusal of the impugned order clearly shows that for releasing the seized vehicle, the application has been filed by the petitioner under Section 451 of the Cr P C but the learned Special Judge, without deciding the application, disposed of the application directing the petitioner to make an application for releasing the said vehicle before the DM, Gaya as confiscation proceeding of the vehicle has been pending before the DM, Gaya. If it was so, the learned Special Judge out to have decided the application but it was not done by the learned Special Judge and the petition was disposed of with the direction, as mentioned earlier, which is not proper. Therefore, on this ground alone, the impugned order is liable to be set aside and the same is, accordingly, set aside.

6 The matter is remitted back to the concerned Special Judge to consider and decide the said application afresh in accordance with relevant rules and laws. The learned Special



Judge is further directed to decide the same as earlier as possible preferably within three months from today.

7 With these observations and directions, this application stands disposed of.

(Arvind Singh Chandel , J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2024
Transmission Date	06.09.2024

