

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32543 of 2024

Arising Out of PS. Case No.-105 Year-2023 Thana- SAHODARA District- West Champaran

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Anand Kishor Kumar, son of Hans Narayan Prasad, Resident Of Village-
Dewadh, PS- Sahodra, Dist- West Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Akash Kumar Mishra, Advocate

For the Opposite Party : Mr. Satyendra Narayan Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

6 13-08-2024 Heard learned counsel for the parties.

2. In this case, the petitioner has challenged the order dated 18.03.2024 passed by the learned Special Judge (NDPS), West Champaran, Bettiah, in Sahodara P.S. Case no.105 of 2023, arising out of NDPS Case No.72 of 2023, by which the application of the petitioner for release of Bolero vehicle bearing Registration No. BR22BD-8742 in connection with the aforesaid case has been rejected.

3. As per the F.I.R., on the basis of a secret information, the police party stopped and searched a Bolero vehicle bearing Registration No. BR22BD-8742 and recovered about 15 Kg. of *ganja* from the said Bolero vehicle. The police



party also apprehended two persons who disclosed their names as Anand Kishore Kumar (petitioner) and Nabulaish Ansari. Accordingly, the present F.I.R. has been registered and the aforesaid vehicle has been seized.

4. Learned counsel for the petitioner submits that the petitioner is the owner as well as the driver of the Bolero vehicle from which the alleged recovery was made. He further submits that the petitioner had no knowledge about the alleged *ganja* being carried by co-accused Nabulaish Ansari, who is next door neighbour of the petitioner and took lift from the petitioner.

5. Learned counsel for the petitioner also submits that the seized *ganja* does not belong to the petitioner and nothing has been recovered from his conscious possession and the said contraband does not come within the purview of the commercial quantity.

6. It has been submitted by learned counsel for the petitioner that the petitioner is a *bona fide* owner of the said Bolero vehicle having certificate of registration in his name issued by the transport authority. It has also been submitted that the learned Special Judge, NDPS, vide order dated 18.03.2024 refused to release the vehicle without assigning any reason. The



only reason which is assigned by the learned court below is that the said Bolero vehicle of the petitioner was used to felicitate in carrying *ganja*.

7. Learned APP has filed the counter affidavit and opposes the release of vehicle in favour of the petitioner on the ground that the petitioner is also an accused in the case and the vehicle is a material exhibit in the case.

8. I have considered the submission of the learned counsel for the petitioner and learned APP for the State.

9. No doubt, the petitioner has been made accused in the case on the basis of recovery of *ganja* from his vehicle. This Court, at this moment, is not considering the defence of the petitioner but relying on the decision of the Hon'ble Supreme Court rendered in the case of ***Sundarbhai Ambalal Desai vs. State of Gujarat*** reported in **2002 (10) SCC 283**, this Court is only considering the release of the vehicle in question. It is an admitted position that no confiscation proceeding has been initiated for confiscating the vehicle in question. It is also an admitted position that the vehicle is lying in the Police Station from the date of occurrence i.e. from 18.08.2023 and the trial of the case is likely to take a long time. In such circumstance, if the vehicle is allowed to remain under



open sky, it will become useless and no fruitful purpose would be served by keeping the vehicle on the road side of the police station.

10. Considering the aforesaid facts and circumstances of the case and also the law laid down by the Supreme Court in the case of ***Sundarbhai Ambalal Desai vs. State of Gujarat*** (supra), I am of the view that vehicle should be released in favour of the registered owner, who is none other than the petitioner. Therefore, this Court sets aside the impugned order dated 18.03.2024 passed by the learned Special Judge (NDPS) and directs release of the vehicle in question subject to the condition that the petitioner shall produce the documents of ownership of the vehicle in question and also furnish surety of Rs. 5,00,000/- (Rupees Five Lakhs). The petitioner will give an undertaking that he will not alter any part of the vehicle; will not sell the vehicle in question during the pendency of the trial and he will produce the vehicle as and when it is required in course of the trial.

11. The Special Judge will get the vehicle in question videographed before its release and for evidence he will use the seizure list etc. for showing the seizure of the contraband from the vehicle in question.



12. With the aforesaid observations and directions, this application is allowed.

(Sandeep Kumar, J)

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