

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49033 of 2023

Arising Out of PS. Case No.-170 Year-2022 Thana- KUDRA District- Kaimur (Bhabua)

Mastarain Devi @ Masterayin Devi W/O Hilamat, R/O Village- Panchdeura,
P.S- Saiyadraja, Distt.- Chandauli (U.P.) At present resident of Village-
Bhuletan, P.S- Lallaura, Varanasi, Distt.- Varanasi (U.P).

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 04-01-2024 Heard learned counsel for the petitioner, learned APP
for the State, Mr. Chandra Bhushan Prasad.

2. The learned APP Mr. Chandra Bhushan Prasad
submits that in compliance of the order dated 29.11.2023 a
counter affidavit has been filed on behalf of SHO, Kudra P.S.

3. The learned counsel for the petitioner submits that
the petitioner is the owner of the vehicle having registration no.
UP65 CT 8752, which was seized by the Kudra Police Station
in connection with Kudra P.S. Case No.170 of 2022 registered
under Sections 379, 429 and 34 of the IPC read with Section
11(i)(a)(d)(c)(f) of the Prevention of Cruelty of Animal Act,
1960.

4. The learned counsel for the petitioner next submits
that petitioner were not apprehended from the spot and being



owner of the vehicle she came to be implicated as the vehicle was found carrying animals in breach of the Prevention of Cruelty of Animal Act, 1960.

5. It is further submitted that the moment petitioner came to know about her false implication in the case she surrendered before the learned trial court and was released on bail. It is next submitted that the driver of the vehicle and cattle owner whose cattle were seized from the vehicle till date have not surrendered.

6. The learned counsel for the petitioner further submits that petitioner after being released on bail filed an application under Section 451 Cr.P.C. seeking release of the vehicle which came to be rejected by the learned trial court by order dated 19.01.2023 against which the petitioner filed Cr. Revision No.23 of 2023 in the court of learned Additional Sessions Judge, IIIrd, Kaimur at Bhabhua. It is next submitted that Cr. Revision No.23 of 2023 also upheld the order dated 19.01.2023 passed by the learned trial court by its order dated 06.03.2023. It is further submitted that from perusal of the order dated 06.03.2023 it would manifest that the sole ground on which the court refused to release the vehicle of the petitioner is that the driver of the vehicle along with the cattle owner have



till date not surrendered and obtained bail.

7. The learned counsel next submits that the reason assigned for not releasing the vehicle is not tenable for the reason that the driver of the vehicle and the cattle owners have no concern with the vehicle and they are also not interested in the vehicle being released, but then the petitioner being the owner of the vehicle on coming to know that the same was misused by the driver in carrying animal in breach of the law surrendered and obtained bail and thereafter she filed the present application for release of the vehicle which came to be rejected and affirmed in revision.

8. The learned APP, Mr. Chandra Bhushan Prasad submits that in the counter affidavit it has been pleaded that petitioner is the owner of the vehicle and the matter is still under investigation as such the vehicle be not released.

9. The learned counsel for the petitioner rebuts the submission of the learned APP and submits that the FIR was instituted on 26.06.2022 and nearly 19 months have passed but still the investigation has not progressed. It is next submitted that if the vehicle is allowed to remain in police station till the investigation is not complete or the trial is not concluded it 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. In view of the submission made by the learned counsel for the petitioner the order dated 06.03.2023 in Cr. Revision No.23 of 2023 affirming the order dated 19.01.2023 passed by the learned trial court rejecting the release of the vehicle, is hereby quashed and the vehicle i.e. UP65 CT 8752 is directed to be released on the following conditions:-

(i) the petitioner shall furnish personal bond of Rs. 5,00,000/- with one solvent surety in the like amount to the satisfaction of the learned trial court, thereafter the aforesaid truck shall be handed over to the petitioner on proving ownership of the vehicle;

(ii) whenever required by the police during investigation or 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)

Prakash Narayan

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