

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.677 of 2021

Arising Out of PS. Case No.-11 Year-2017 Thana- BELCHHI District- Patna

Santosh Kumar Through The Senior Manager Punjab National Bank S/O Shri Balmiki Prasad B/O Korari Baghatila, P.S-Belchi, District-Patna, Punjab National Bank, District-Patna.

... .. Petitioner/s

Versus

State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar, Advocate Mr. Surendra Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL JUDGMENT

Date : 17-02-2024

1. An application filed by the informant as petitioner under Section 457 of the Cr.P.C., praying for return of seized currency notes, amounting to Rs. 46,000,00/-, during the pendency of the trial of the case under Sections 394, 302, 414 and 34 of the Indian Penal Code and Sections 25(1b)(a) and 27 of the Arms Act, 1959, against the accused persons, came up for hearing before the learned Trial Judge on 2nd of March, 2021. The learned Trial Judge rejected the said application.

2. The petitioner, being aggrieved, has



filed the instant revision.

3. In order to appreciate the instant revision, it is necessary to state that on the basis of a written complaint, dated 6th March, 2017, filed by one Raju Prasad, the then Branch Manager of Punjab National Bank, Branch Korari Bagha Tila, Village – Korari, it is ascertained that on the self-same date at about 12.30 P.M., when the informant along with Police Guards and others reached near Korari Bagha Tila Branch of Punjan National Bank by a Bolero Jeep, bearing Registration No. BR21C-9311 and were carrying the cash box, containing Rs. 60,000,00/-, some miscreants had attacked them. They opened indiscriminate fire, as a result of which two Guards were killed and the amount was looted. On the basis of said complaint, Police registered Belchi P. S. Case No. 11 of 2017, dated 6th March, 2017, under Sections 394, 302 and 34 of the Indian Penal Code and Section 27 of the Arms Act, 1959 and took up the case for investigation. During investigation, Police seized Rs. 46,000,00/-



in different denominations from the possession of the accused persons. The said sum presently is kept in Police Malkhana.

4. It is contended on behalf of the petitioner that Test Identification of the seized currency notes has been done. The witnesses on behalf of the prosecution identified the seized currency notes as the same currency notes maintained in the Bank and was looted on 6th of March, 2017. At this stage, the petitioner made an application for return of the seized currency notes on the ground that the currency notes belonged to Punjab National Bank. As per the provisions contained in Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970, the Punjab National Bank was established. It is a Public Undertaking and therefore the amount should be returned to the Bank concerned.

5. The learned Trial Judge rejected the said application by passing the order impugned.

6. The petitioner has filed the instant



revision, assailing the said order, dated 2nd of March, 2021.

7. It is submitted by the learned Advocate for the petitioner that as Punjab National Bank is the lawful custodian of the said currency notes, the said seized notes may be handed over to them.

8. On the contrary, the learned Additional Public Prosecutor, Incharge, submits that since the seized currency notes have been marked exhibits and they are material exhibits in connection with the Sessions Case, the same cannot be returned to the Bank till the disposal of the trial.

9. With regard to disposal of seized articles, kept in police custody, pending trial, a detailed guideline has been laid down by the Hon'ble Supreme Court in case of *Sunderbhai Ambalal Desai Vs. State of Gujarat*, reported in (2002) 10 SCC 283. Paragraph 11 of the said report is relevant for the purposes of this case and reproduced hereinbelow:

“Valuable Articles and Currency Notes



11. With regard to valuable articles, such as, golden or silver ornaments or articles studded with precious stones, it is submitted that it is of no use to keep such articles in police custody for years till the trial is over. In our view, this submission requires to be accepted. In such cases, the Magistrate should pass appropriate orders as contemplated under Section 451 Cr.P.C. at the earliest.”

10. In paragraph nos. 12 and 13 in the case of ***Sunderbhai Ambalal Desai*** (supra), the Hon'ble Supreme Court further held that:

“12. For this purpose, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:

(1) preparing detailed proper panchnama of such articles;

(2) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and

(3) after taking proper security.

13. For this purpose, the Court may follow the procedure of recording such evidence, as it thinks necessary, as provided under Section 451 Cr.P.C. The bond and security should be taken so as to prevent the evidence being lost, altered or destroyed. The Court should see that photographs of such articles are attested or countersigned by the complainant, accused as well as by the person



to whom the custody is handed over. Still however, it would be the function of the Court under Section 451 Cr.P.C. to impose any other appropriate condition.”

11. The Hon'ble Supreme Court in case of ***Basavva Kom Dyamangouda Patil Vs. Stae of Mysore & Anr.***, reported in (1977) 4 SCC 358, in paragraph 4, also held that:

“4. The object and scheme of the various provisions of the Code appear to be that where the property which has been the subject-matter of an offence is seized by the police it ought not to be retained in the custody of the Court or of the police for any time longer than what is absolutely necessary. As the seizure of the property by the police amounts to a clear entrustment of the property to a government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases. It is manifest that there may be two stages when the property may be returned to the owner. In the first place it may be returned during any inquiry or trial. This may particularly be necessary where the property concerned is subject to speedy or natural decay. There may be other compelling reasons also which may justify the disposal of the property to the owner or otherwise in the interest of justice. The High Court and the Sessions Judge proceeded on the footing that one of the essential requirements of



the Code is that the articles concerned must be produced before the Court or should be in its custody. The object of the Code seems to be that any property which is in the control of the Court either directly or indirectly should be disposed of by the Court and a just and proper order should be passed by the Court regarding its disposal. In a criminal case, the police always acts under the direct control of the Court and has to take orders from it at every stage of an inquiry or trial. In this broad sense, therefore, the Court exercises an overall control on the actions of the police officers in every case where it has taken cognizance.”

12. Thus, the seized currency notes belonged to the Punjab National Bank and the petitioner is the Branch Manager of the concerned Bank, the currency notes ought to be returned following the guidelines made by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai*** (supra).

13. Therefore, the impugned order, dated 2nd of March, 2021, passed by the learned Additional Sessions Judge – 3, Barh, in Sessions Trial No. 713 of 2017 is quashed and set aside.

14. The Trial Court is directed to dispose



of the petition in accordance with law, following the guidelines laid down by the Hon'ble Supreme Court in case of *Sunderbhai Ambalal Desai* (supra) within thirty (30) days from the date of communication of this order.

15. The petitioner is at liberty to act on the served copy of the order.

(Bibek Chaudhuri, J)

skm/-

AFR/NAFR	N/A
CAV DATE	N/A
Uploading Date	20.02.2024
Transmission Date	N/A

