

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2070 of 2023

Arising Out of PS. Case No.-152 Year-2023 Thana- BARGAINIA District- Sitamarhi

Pramod Kumar S/O Shambhu Prasad Village- Pachtaki Ram, Ward No. 3, Ps.
Bairgania, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through The Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Transport Deptt., Govt. of Bihar, Patna.
3. The District Magistrate-Cum-Collector, Sitamarhi Bihar, Sitamarhi.
4. The Superintendent of Police, Sitamarhi, District-Sitamarhi.
5. The Station Head Officer, Bairgania Police Station, District- Sitamarhi.
Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pushpendra Kumar Singh, Advocate
For the Respondent/s	:	Mr. Anant Kumar Singh, SC-15
		Mrs. Deepika Sharma, AC to SC-15

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 15-02-2025 This is an writ petition under Article 226 of the Constitution of India filed by one Pramod Kumar, claiming to be the owner of a Hyundai Venue vehicle bearing Registration No.BR06DD0765, which was seized by police in connection with Bairgania P.S. Case No.152 of 2023 registered for the offences under Sections 399, 402, 414 of the Indian Penal Code and Section 8, 20(b)(ii)(c) of the N.D.P.S. Act read with Section 25(1-b)a, 26, 35 of the Arms Act.

2. It is submitted by the learned Advocate on behalf of the petitioner that the aforesaid Car was used for the purpose of



hiring. It was driven by one Raju, son-in-law of the petitioner. The petitioner being the owner of the vehicle had not been made accused in the instant case. It is further submitted by the petitioner that the allegation against the principal accused, namely, Dhiraj Jaiswal is that while he was traveling by the said vehicle he was found in illegal possession of 1.610 kg. of Charas, which is a Narcotic substance.

3. It is contended on behalf of the petitioner that the petitioner had no connection with the accused, his vehicle was seized in connection with the offence. Therefore, the said vehicle may be released.

4. A counter affidavit has been filed on behalf of the State-Respondents wherein it is alleged that confiscation proceeding has already been initiated/pending against the seized vehicle under Section 60 of the N.D.P.S. Act. Therefore, if the petitioner has any grievance he may approach the District Magistrate/Collector for return of the said vehicle on executing proper bond. It is also submitted on behalf of the respondents that the accused persons were charge-sheeted in connection with the above mentioned police case. Therefore, the prima-facie case against the accused persons have been established.

5. The issue as to whether a vehicle involved in an



offence punishable under the N.D.P.S. Act, can be released, came up for discussion in ***Criminal Revision No.503 of 2022 (Rabindra Kumar Behera Vs. State of Odisha)*** before the Division Bench of the Orissa High Court alongwith alongwith similar other criminal revisions and the Division Bench of the said Court vide judgement dated 15.01.2025 placing reliance of ***Sainaba Vs. State of Kerala and Another, (Special Leave Petition (Crl.) No.13370/2024)*** directed released of the seized vehicle. In **Sainaba (Supra)** also, a charge sheet has been filed in the Court of the learned Special Judge. In the said charge sheet, the owner of the vehicle has not been arrayed as an accused, only a third party occupant and the driver of the vehicle has been arrayed as accused. The police after investigation has not found the appellant i.e. the owner of the vehicle, has allowed his vehicle to transport contraband drugs/substance with his knowledge or connivance or that he or his agent had not taken all reasonable precautions against such use. Consequently, the conveyance is entitled to be released on superdari.

6. In fact, the Supreme Court in similar facts in ***Sainaba Vs. State of Kerala and Another***, reported in **2022 SCC OnLine SC 1784** has held as under:-



“6. The appellant has urged *inter alia* that as per Section 36-C read with Section 51 of the N.D.P.S. Act, Criminal Procedure Code would be applicable for proceedings by a Special Court under NDPS Act and Section 451 has an inbuilt provision to impose any specific condition on the appellant while releasing the vehicle. The appellant is undoubtedly the registered owner of the vehicle but had not participated in the offence as alleged by the prosecution nor had knowledge of the alleged transaction.

7. Learned counsel seeks to rely on the judgment of this Court in **Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283** opining that it is no use to keep such seized vehicles at police station for a long period and it is open to the Magistrate to pass appropriate orders immediately by taking a bond and a guarantee as well as security for return of the said vehicle, if required at any point of time.

8. On hearing learned counsel for parties and in the conspectus of the facts and circumstances of the case, and the legal provisions referred aforesaid, we are of the view that this is an appropriate case for release of the vehicle on terms and conditions to be determined by the Special Court.

9. The appeal is accordingly allowed leaving parties to bear their own costs.”

7. Relying on the decision of the Hon’ble Supreme Court in Sainaba, this Court finds that if the vehicle in the present case is allowed to be kept in custody of police till the



trial is over, it will serve no purpose. This court takes judicial notice that vehicles in police custody are stored in the open and improper condition. Consequently, if the vehicle is not released during the trial, it will be wasted and suffering the vagaries of the weather, its value will only reduce.

8. For the reasons stated above, this Court is inclined to release the seized vehicle on the following condition:-

(I) the owner of the vehicle shall submit a bond of Rs.10,00,000/- (Rupees Ten lacs only) to the satisfaction of the learned Special Judge.

(II) he will not change the nature/character, colour and make of the vehicle during the pendency of the criminal case.

(III) he shall produce the vehicle before the learned Sessions Judge, N.D.P.S. Court, Sitamarhi as and when call for, for the purpose of Trial of the case.

9. With the above direction, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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