

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.35118 of 2021**

Arising Out of PS. Case No.-7 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.  
District- Patna

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AJAY KUMAR Son of Ram Pravesh Ray Resident of village - Usmanpur,  
P.S.- Athmalgola, District - Patna.

... .. Petitioner/s

Versus

The Union of India Through the Intelligence Officer, Narcotics Control  
Bureau, Patna Zonal Unit, Patna, Bihar

... .. Opposite Party/s

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**Appearance :**

|                    |   |                                   |
|--------------------|---|-----------------------------------|
| For the Petitioner | : | Mr. Ashok Kumar Mishra, Advocate  |
|                    |   | Ms. Pratibha Srivastava, Advocate |
| For the N.C.B.     | : | Mr. Arvind Kumar, C.G.C.          |

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**CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA**  
**ORAL ORDER**

8      09-01-2026                      Heard Mr. Ashok Kumar Mishra, the learned counsel  
  
for the petitioner and Mr. Arvind Kumar, learned C.G.C.  
  
appearing on behalf of the N.C.B.

2. By filing the present application, a prayer has been made on behalf of the petitioner to quash the order dated 07.02.2020 passed in Special Case No.31 of 2019 (arising out of F.No.-NCB/PZU/V/07/2019/02.03.2019) passed by the Court of learned Additional Sessions Judge-XVIII, Patna, whereby and whereunder the petition filed by the petitioner for release of Tata Truck, bearing registration No.-BR06GD-2993, has been rejected.

3. It is contended on behalf of the petitioner that the



petitioner is the owner of the Truck in question and is not named accused in the first information report, which was lodged against the other accused persons. It is further contended that the prosecution was initiated against two persons, namely, Dinesh Yadav and Raj Kapoor Ray, who were intercepted with the Truck in question and recovery of 750 kgs. of brown colour substance believed to be Ganja was recovered from the said vehicle. Two accused persons also confessed their involvement and were taken into custody. So far as the petitioner is concerned, his name did not transpire in the initial report registered against two accused persons nor were they named in the confessional statement of the co-accused persons. The name of the petitioner surfaced, subsequently, as the owner of the said truck and a notice under Section 67 of the N.D.P.S. Act was issued upon the petitioner.

4. It is further contended that beyond issuance of notice under Section 67 of the N.D.P.S. Act. There is no other material available on record to show that the contraband belonged to the petitioner and he was in any way involved in the transportation of the said contraband. To buttress his submission, learned counsel for the petitioner relied on a judgment of the Hon'ble Apex Court passed on January 7, 2025



in the case of **Bishwajit Dey Vs. The State of Assam** reported in **(2025) 3 SCC 241**, whereby and whereunder the various scenarios of release of conveyance has been described and it has been submitted that the case of the petitioner falls within the fourth scenario where the recovered contraband was recovered from a third party occupant of the vehicle and the contraband stored and transported was not in the knowledge of the petitioner and his connivance has not been established. It is, thus, contended that in such a situation, no purpose would be served in keeping the vehicle in the custody of the police in abandoned condition. Further, the same would be subject to causing damage due to the vehicle. An undertaking has been offered on behalf of the petitioner that he would produce the said vehicle before the authority concerned as and when required and would not dispose of the said vehicle.

5. Learned counsel appearing on behalf of the N.C.B., however, opposes the release of the said vehicle on the ground that notices under Section 67 of the N.D.P.S. Act issued to the petitioner finding him to be the owner of the Truck and also on the ground that the mobile recovered from the Truck in question stood in the name of the petitioner, hence his connivance cannot be ruled out.



6. At this stage, it would be apt to gainfully refer to the judgment rendered by the Hon'ble Supreme Court in the case of **Sainaba Vs. State of Kerala and Another, 2022 SCC OnLine SC 1784** and paragraph-6 and 7 of the said judgment is being quoted hereunder:

*“6. The appellant has urged inter alia that as per Section 36-C read with section 51 of the NDPS 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.”*

7. Taking into consideration the facts and



circumstances of this case and also considering the fact that there is no convincing material on record to indicate the involvement of the petitioner in the present offence but for being the owner of the Truck and also considering the fact that the petitioner undertakes to produce the vehicle as and when required before the authority or the Court concerned, this Court is of the view that the order dated 07.02.2020 passed in Special Case No.31 of 2019 (arising out of F.No.-NCB/PZU/V/07/2019/02.03.2019), refusing to release the Truck in question in favour of the petitioner, whereby the petition for release of the said Truck stood dismissed, is hereby quashed.

8. The learned Court concerned is directed to release the vehicle in question after preparing a video and still photographs of the vehicle and after obtaining all information/document necessary for identification of the vehicle, which shall be authenticated by the Investigating Officer, owner of the vehicle i.e. the present petitioner by signing the same. Further, the petitioner shall not sell or part with the ownership of the vehicle till the investigation of the case is completed and also till the conclusion of the trial and he shall furnish an undertaking that he would surrender the said vehicle within one week or pay value of the vehicle, if so



ultimately directed by the Court. It goes without saying that the petitioner would appear before the N.C.B. and would cooperate in the process of investigation so that the case may be brought to its logical end.

**(Soni Shrivastava, J)**

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