

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 2386 of 2022

Anita Devi, age 25 years old, wife of Raju Ganjhu, resident of village -
Kathaun, P.O. & P.S. -Sadar, District -Chatra.

.... Petitioner

Versus

The State of Jharkhand

.... Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

.....

For the Petitioner	: Mr. Sabyasanchi, Advocate
	: Mr. Sourabh Kumar Das, Advocate
For the State	: Mr. Vineet Kr. Vashistha, Spl. P.P.

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By the Court:-

1. Heard the parties.
2. This criminal miscellaneous petition has been filed invoking the jurisdiction of this Court under Section 482 Cr.P.C. with a prayer for quashing the order dated 23.03.2022, passed in MCA No. 1335 of 2021 by the learned Sessions Judge-cum-Special Judge (N.D.P.S. Cases), Chatra by which the learned Sessions Judge has refused to release the vehicle seized in connection with N.D.P.S. Case No. 192 of 2021 corresponding to Bashisthanagar P.S. Case No. 58 of 2021.
3. The brief fact of the case is that the petitioner is the owner of the Super Splendor Motorcycle bearing Registration No. JH-13G-1797

which was seized by police for transporting Doda. The petitioner filed a petition for release of the vehicle which was rejected.

4. It is submitted by the learned counsel for the petitioner that the petitioner is a female and the seized motorcycle is lying in the premises of Bashisthanagar Police Station uncared and thereby its value is diminishing day by day. It is next submitted that the petitioner is ready and willing to furnish indemnity bond with an undertaking to produce the motorcycle as and when required by the court or police and also undertakes not to alienate the same or to change the condition or colour thereof, till the final disposal of the case. It is then submitted that unless the vehicle is released, the petitioner will be highly prejudiced.

5. Relying upon the Judgment of Hon'ble Supreme Court of India in the case of **Sunderbhai Ambalal Desai v. State of Gujarat**, reported in **(2002) 10 SCC 283**, it is submitted by the learned counsel for the petitioner that the Hon'ble Supreme Court has observed that vehicles unnecessarily be not allowed to be kept in the premises of the police station for long period. It is next submitted that the learned Sessions Judge failed to consider the aforesaid principle of law. Hence, it is submitted that the prayer as made for in this criminal miscellaneous petition be allowed.

6. The learned Special Public Prosecutor on the other hand opposes the prayer for quashing the order dated 23.03.2022, passed in MCA No. 1335 of 2021 by the learned Sessions Judge-cum-Special Judge (N.D.P.S. Cases), Chatra by which the learned Sessions

Judge has refused to release the vehicle seized in connection with N.D.P.S. Case No. 192 of 2021 corresponding to Bashisthanagar P.S. Case No. 58 of 2021 and submits that the vehicle may be liable for confiscation at the time of conclusion of the trial. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

7. Having heard the submissions made at the Bar and after going through the materials in the record, it is pertinent to mention here that it is a settled principle of law that the vehicles seized in connection with police cases need not be kept in the police stations under open sky unless its existence is required during the investigation of the case or other.
8. Now coming to the facts of the case, it appears that the trial of the case is going on since long and there is no chance of the trial being concluded in near future and the vehicle is lying under open sky within the premises of the police station obviously diminishing its value day by day. Under such circumstances, this Court is of the considered view that the learned Sessions Judge-cum-Special Judge (N.D.P.S. Cases), Chatra has committed a gross illegality by rejecting the prayer for release of the vehicle in question. Hence, the order dated 23.03.2022, passed in MCA No. 1335 of 2021 by the learned Sessions Judge-cum-Special Judge (N.D.P.S. Cases), Chatra by which the learned Sessions Judge has refused to release the vehicle seized in connection with N.D.P.S.

Case No. 192 of 2021 corresponding to Bashisthanagar P.S. Case No. 58 of 2021, is quashed and set aside.

9. The learned Sessions Judge-cum-Special Judge (N.D.P.S. Cases), Chatra is directed to release the Super Splendor Motorcycle bearing Registration No. JH-13G-1797 in favour of the petitioner on the petitioner's submitting an undertaking on the following terms and conditions:

- i. The petitioner shall furnish an indemnity bond of Rs.1,00,000/- each with two solvent sureties of like amount each undertaking that the petitioner shall produce the vehicle as, and when required by the court or police.*
- ii. The petitioner shall not sale, mortgage or transfer the ownership of the vehicle during the pendency of the case nor allow anybody else than her to ride the same.*
- iii. The petitioner shall not change or tamper with the identification of the vehicle in any manner during the pendency of the case.*
- iv. Any other condition, if any, to be imposed by the trial court.*

10. In the result, this criminal miscellaneous petition is allowed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 29th April, 2024
AFR/Sonu-Gunjan/-