

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39655 of 2016

Arising Out of PS.Case No. -122 Year- 2014 Thana -DAWATH District- SASARAM (ROHTAS)

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1. Akhilesh Kumar son of Kedar Singh, resident of village- Badhaiyabag Takiya Sasaram, Police Station- Sasaram (Model), District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Adv.

For the Opposite Party/s : Mr. Shantanu Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 31-08-2017

By way of the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioner has challenged the order dated 06.06.2016 passed by the learned 3rd Additional Sessions Judge, Rohtas at Sasaram in S.Tr. No. 115 of 2015 arising out of Dawath P.S.Case No. 122 of 2014 by which he has refused to release the Hyundai Car bearing Registration No. BR-02R-2643 in favour of the petitioner on the ground that the said car is involved in the commission of offences of dacoity and robbery.

2. In the opinion of this Court, the impugned order passed by the learned 3rd Additional Sessions Judge, Rohtas, Sasaram cannot be sustained in view of the fact that the court below has failed to take notice of the binding law laid down by the Hon'ble Supreme Court in



Sunderbhai Ambalal Desai vs. State of Gujarat [(2002) 10 SCC 283], Sunderbhai Ambalal Desai vs. State of Gujarat [(2002) 10 SCC 290] and General Insurance Council and Ors vs. State of Andhra Pradesh & Ors. [(2010) 6 SCC 768] while rejecting the application for release of the vehicle in question filed by the registered owner.

3. Accordingly, the impugned order dated 06.06.2016 passed by the learned 3rd Additional Sessions Judge, Rohtas at Sasaram in S.Tr. No. 115 of 2015 is set aside and the matter is remanded back to the court below. The court below is directed to hear the matter afresh and decide the same in accordance with law after taking into consideration the ratio laid down by the Supreme Court in the aforementioned cases as early as possible and preferably within six weeks from the date of receipt/production of a copy of the order.

4. The application stands allowed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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