

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 420 / 2018

Parveen Kumar S/o Shri Mahavir, Aged About 31 Years, By Caste Sharma R/o Village Kichhana, Tehsil Kaithal, District Kaithal, Haryana, in the Capacity of Power of Attorney Holder of Shri Anand Tayal S/o Vijay Kumar Tayal, Aged 37 Years, Proprietor M/s Caravan Transport Organization (India) Plot No.119, Transport Nagar, Ludhiana, Punjab (India).

----Petitioner



Versus

----Respondent

For Petitioner(s) : Dr.Shailendra Kala.

For Respondent(s) : Mr.J.P.Bhardwaj, P.P.

HON'BLE MR. JUSTICE SANDEEP MEHTA

Judgment / Order

22/02/2018

Heard learned counsel for the petitioner and learned Public Prosecutor. Perused the material available on record.

The petitioner herein being the power of attorney holder of Shri Anand Tayal; Proprietor M/s.Caravan Transport Organization has approached this Court for challenging the order dated 9.1.2018 passed by learned Judicial Magistrate, Raniwada in connection with F.I.R. No.2/2018 whereby the application submitted on behalf of the petitioner under Section 457 Cr.P.C. for releasing 125 cartons/bundles of raw yarn being transported in the truck bearing registration No.GJ12.BV.6362 was rejected and so also, the order dated 25.1.2018 passed by the learned Additional Sessions Judge, Bhinmal dismissing the revision

preferred against the Magistrate's order.

Learned counsel Shri Kala urges that the petitioner had bonafide booked the said raw yarn for onward transportation to the OCM company. The Investigating Officer conducted inquiry and concluded that the petitioner genuinely engaged the truck in question so far as the transportation of the seized yarn and that the truck driver and the Khalasi developed a criminal intention on the way and concealed the seized liquor cartons under the cartons of raw yarn and for the illegal design of transporting the same to Gujarat for gain. It is the categoric conclusion of the Investigating Officer that there was no connection of the owner of the transport company, who had booked the yarn for transportation in the disputed truck. He thus urges that the trial court was not justified in rejecting the application submitted by the petitioner for seeking custody of the yarn in question and implores the Court to accept the petition and set aside the impugned orders.

The learned Public Prosecutor with reference to the Investigating Officer's factual report admits that it had been concluded that the owner of the transport company i.e. the petitioner herein had no connection with the liquor loaded in the truck enroute by the truck driver and the Khalasi. Manifestly thus, the bundles of yarn which were being transported in the disputed truck have no connection with the liquor concealed thereunder and as such, permitting the yarn bundles to lie at the Police Station would be absolutely a travesty of justice.

Consequently, the misc. petition deserves to be and is hereby allowed. The impugned orders dated 25.1.2018 passed by

learned Additional Sessions Judge, Bhinmal as well as the order dated 9.1.2018 passed by learned Judicial Magistrate, Raniwara are hereby quashed and set aside. The seized cartons of yarn shall be handed over in interim custody to the petitioner on usual terms and conditions and upon furnishing a Supardaginama in the sum of Rs.1,00,000/- and two surety bonds in the like amount to the satisfaction of the trial court.

(SANDEEP MEHTA)J.



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