

Court No. - 89

Case :- APPLICATION U/S 482 No. - 35162 of 2023

Applicant :- Ankit Dwivedi

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Birendra Singh, Swati Singh

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicant and learned A.G.A for the State.

2. This application under Section 482 Cr.P.C has been filed for quashing the order dated 12.07.2023 passed by Chief Judicial Magistrate, Chitrakoot in Case No. 354 of 2023, (State of U.P. Vs. Ankit Dwivedi) Police Station Kotwali Karvi, District Chitrakoot and issue a direction to the C.J.M Chitrakoot to forthwith release JCB Machine bearing registration no. UP 96T-3954 in favor of the applicant which is present in custody of Police Station Kotwali Karvi, District Chitrakoot given by Mines Officer, Chitrakoot through Challani Report dated 01.06.2023.

3. Counsel for the applicant submits that applicant is owner of a JCB vehicle bearing Registration No. UP 96T-3954. It is further submitted that the mining officer has seized the vehicle in the provision of 21(1) of Mines and Minerals(Development and Regulation) Act, 1957 on the ground of illegal transportation of soil. The mining officer on 05.07.2023 sent challan report to the C.J.M Chitrakoot, stating therein that applicant has violated the provisions of Section 21(1) of Mines and Minerals(Development and Regulation) Act, 1957, and sent the vehicle in custody of Police Station Karvi on 01.06.2023. The applicant thereafter moved release application before the C.J.M Chitrakoot, to release the vehicle and learned C.J.M on 12.07.2023 rejected the release application of the applicant observing that aforesaid vehicle has not seized in any offence there, court has no power to release the vehicle.

4. On 22.09.2023 the case was heard and learned A.G.A was directed to obtain instruction. Learned A.G.A has submitted that he has received instructions and submits that there is no complaint against the applicant or applicant's vehicle.

5. I have considered the submission of learned counsel for the applicant and perused the entire record. It is apparent from the record that the applicant's JCB machine is seized by the mining officer, thereafter same handed over in the custody of Police Station Karvi, without any cause and reason, the act of mining officer is highly arbitrary and is illegal. Learned C.J.M Chitrakoot, is directed to release the said vehicle of the applicant within fifteen days after verifying the documents related to JCB machine as there is no offence registered against the applicant and vehicle has been seized in an arbitrary manner by the mining officer.

6. With this observation the application is **disposed of**.

Order Date :- 18.10.2023

Saurabh