

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8792 of 2015

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Ritesh Kumar Patel son of Mithilesh Choudhary, Resident of Muhalla- Shastri Nagar, Chandauli, P.S.- Chandauli, District- Chandauli (U.P.). At present Resident of Village- Darekhap, P.S.- Nasriganj (Rajpur), District- Rohtas

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Forest Department, Government of Bihar, Patna
2. The District Magistrate, Rohtas at Sasaram
3. The Divisional Forest Officer-cum-Authorised Officer, Rohtas Forest Division, Sasaram, District- Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh

For the Respondent/s : Mr. GA12-AJAY

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 11-09-2015

Today again, on call, a prayer is being made by learned AC to GA No. 12 for granting further time for filing counter affidavit. Earlier, on 13.8.2015 on the prayer made by learned counsel for the State the case was adjourned for four weeks for obtaining instruction and filing counter affidavit. While granting time the Court had orally made it clear that no further adjournment shall be granted. Even thereafter, again the prayer for adjournment is being reiterated, which is refused.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for directing the Respondent No. 3 i.e. Divisional Forest Officer –cum-



Authorized Officer, Rohtas Forest Division, Sasaram, District- Rohtas to provisionally release his truck bearing registration no. UP67B/1649 in connection with Confiscation Case No. 94 of 2015 (arising out of Bikramganj P.S. Case No. 81 of 2015). It has been argued that the vehicle in question was intercepted by local police on road near Bikramganj. The truck was loaded with stone chips. Despite the fact that the stone chips were being carried on appropriate *challan* which was produced at the time of interception, the truck loaded with stone chips was seized and thereafter, besides registering F.I.R. a Confiscation Proceeding under the Indian Forest Act vide Confiscation Case No. 94 of 2015 was initiated. In the confiscation proceeding, the petitioner appeared and filed show cause giving details regarding valid / legal carrying of the stone chips. It was stated that stone chips were loaded on valid mining *challan* from the crusher machine i.e. M/s Sona Stone Chips, Chhatarpur. Besides filing show cause the petitioner on 13.6.2015 also filed a petition for release of the vehicle. Learned counsel for the petitioner submits that despite the fact that the petitioner also prayed for release of the vehicle no order has been passed till date. According to learned counsel for the petitioner if the vehicle in question is kept in open sky, then there is every likelihood that the vehicle may be destroyed. Accordingly, a prayer has been made for directing for provisional



release of the vehicle in question. Learned counsel for the petitioner has also placed reliance on an order passed by this court on 16.2.2015 in CWJC No. 377 of 2015 and other connected writ petitions wherein this Court had noticed that allowing the vehicle to be kept in open sky would certainly allow to destroy the vehicle which will serve no purpose. This court in the said case while allowing for provisional release had specified certain conditions which are quoted hereinbelow:-

- (a) **The petitioner shall produce all original papers supporting the ownership of the vehicle in question including the registration papers, the insurance paper, the tax token and the pollution certificate.**
- (b) **The petitioner shall file an undertaking in the form of an affidavit that he shall not alienate the vehicle or transfer the vehicle in favour of any third party during the pendency of the confiscation proceedings and shall produce the vehicle as and when required in the confiscation proceedings.**
- (c) **The petitioner shall furnish such security as deem fit and proper by the Divisional Forest Officer –cum- Authorized Officer, Rohtas at Sasaram which shall neither be in the form of cash nor bank guarantee; and**
- (d) **The release of the vehicle shall be governed by the final outcome of the confiscation proceedings.**

In view of facts and circumstances, the Court is of the

opinion that same relief can be granted to the petitioner. Accordingly the respondents particularly, the Respondent No. 3 is directed to provisionally release the vehicle in question on the terms and conditions as incorporated hereinabove. All the formalities are required to be completed within a period of four weeks from the date of receipt / production of a copy of this order.

The writ petition stands allowed.

(Rakesh Kumar, J)

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