

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8833 of 2015

Sanjay Kumar son of Late Jagarnath Sah Resident of Village - Bansa, P.S. - Sasaram (M), 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

Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh

For the Respondent/s : AC to GA No. 12

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 this Court had orally made it clear that no further adjournment shall be granted. Even thereafter, again the prayer for adjournment is being reiterated, which stands 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 Mahindra Tractor Bearing Registration No. BR 24G/9313, Engine No. RDHN 330 (hereinafter referred to as “vehicle in question”) in connection with Confiscation Case No. 91 of 2015 (arising out of Forest Case No. 44 of 2015) registered under Sections 33, 41 and 42 of the Indian Forest Act, 1927 (hereinafter referred to as the “Forest Act”).

Learned counsel for the petitioner submits that unauthorizedly his tractor was seized on an allegation of carrying illegally mined stone chips measuring about 80 C.F.T.

Learned counsel for the petitioner submits that besides registering F.I.R. a Confiscation Case was also initiated vide Confiscation Case No. 91 of 2015. After notice the petitioner filed show cause. Besides filing show cause petitioner also filed a petition for interim release of the vehicle in question. Said petition was filed on 26.5.2015. According to learned counsel for the petitioner if the vehicle in question is allowed to be kept in open sky then there is every likelihood that the vehicle may be destroyed. 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 a bench of 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.**

Accordingly, in terms of order passed in CWJC No. 377 of 2015, the writ petition stands allowed with a direction to Respondents particularly the Respondent No. 3 i.e. Divisional Forest Officer -cum- Authorized Officer, Rohtas Forest Division, Sasaram, Rohtas to release the vehicle in question on the terms and conditions as incorporated hereinabove. All formalities must be completed within

a period of four weeks from the date of receipt / production of a copy
of this order.

(Rakesh Kumar, J)

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