

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17636 of 2015

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Hari Narayan Kumar S/o Suresh Yadav R/o Mohalla - Nooranganj, Ward No. 35,
P.S. Sasaram, District - Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Forest Department Government of Bihar, Patna
2. The Chief Conservator of Forest Bihar, Patna.
3. The District Magistrate Rohtas, Sasaram
4. The Authorized Officer Cum Divisional Forest Officer Rohtas, Sasaram
5. The District Forest officer, Rohtas, Sasaram
6. The Range Officer Sasaram Forest Area at Sasaram
7. The Forestor Tilauthu Cum Darigaon, Forest Circle District Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Singh

For the Respondent/s : AC to SC 30

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 06-11-2015

Heard Sri Uma Shankar Singh, learned counsel for the
petitioner and learned AC to SC No. 30.

The petitioner has approached this court invoking its writ
jurisdiction under Article 226 of the Constitution of India with a
prayer to direct the respondent i.e. respondent no. 4 / Authorized
Officer –cum- Divisional Forest Officer, Rohtas, Sasaram for
provisional release of his vehicle which is subject matter in
Confiscation Case No. 181 of 2015. Alternatively, a prayer has been
made to direct the respondent no. 4 to dispose of the confiscation
proceeding.



Learned counsel for the petitioner submits that after the seizure and initiation of confiscation proceeding the petitioner had filed a petition for provisional release before the Authorized Officer – cum- D.F.O., Rohtas at Sasaram. Neither on his petition for provisional release any decision has been taken nor confiscation proceeding has been concluded. He submits that the vehicle in question was moving loaded with stone cheaps on valid permit. However, it was illegally sized. Besides filing a Forest Case vide Forest Case No. 86 of 2015, Confiscation Case has also been initiated. He submits that almost in identical situation a single bench of this court in a case reported in **2015(4) PLJR 76 (Devbali Chauhan vs. The State of Bihar & Ors.)** has directed for provisional release of the seized vehicle on certain conditions. He has also placed reliance on an unreported order passed by a division bench in L.P.A. No. 415 of 2015 disposed of on 19.5.2015. He submits that almost in identical situation a single bench of this court had ordered for release of the vehicle which was assailed in L.P.A. and L.P.A. Court had approved the order of the single bench. Sri Singh, has also referred to Section 53 of the Indian Forest Act, 1927 which empowers a forest officer for releasing the seized vehicle. On the aforesaid grounds, a prayer has been made to allow the writ petition in terms of the prayer which has been indicated hereinabove.



On perusal of the writ petition it is evident that only on 7.10.2015 the vehicle in question alongwith other four trucks were intercepted, checked and found that those vehicles were involved in the forest offence. Those trucks were loaded with illegally mined stone cheaps / boulders. Thereafter, a case vide Forest Case No. 86 of 2015 was registered and report was sent on the next date i.e. on 8.10.2015 to the learned Sub Divisional Judicial Magistrate, Dehri on Sone, Rohtas. Besides initiating forest case a confiscation proceeding has also been initiated which has been numbered as Confiscation Case No. 181 of 2015 pertaining to the vehicle in question. After the seizure the petitioner filed immediately on 9.10.2015 vide Annexure – ‘4’ to the writ petition filed an application for provisional release of the vehicle in question and without waiting for the result of his application filed before the D.F.O., before expiry of one month, the present writ petition was filed on 4.11.2015. Fact remains that after seizure confiscation proceeding has already been initiated. Under the Indian Forest Act 1927 after conclusion of the confiscation proceeding there is statutory remedy for Appeal and Revision also. However, it appears that in haste the petitioner has approached this court for release of the vehicle as indicated hereinabove. It is not in dispute that forest officials have been empowered under Section 53 of the Indian Forest Act 1927 for

releasing the vehicle / carts but it does not mean that in each and every cases such power is to be exercised. It is also settled that if confiscation proceeding is already going on only in exceptional cases direction for release can be granted. So far the order passed in Devbali Chauhan case (Supra) is concerned, on going through the said order it is evident that those cases were allowed in particular facts and circumstances. Similarly, on perusal of the order passed in L.P.A. No. 415 of 2015 also, it is evident that said case was decided in a situation not exactly similar to the present case.

In view of the facts and circumstances of the present case, particularly the fact that seizure was affected on an allegation of commission of forest act only on 7.10.2015, the court considers that at the moment there is no requirement for passing any positive direction. The confiscation proceeding may be disposed of in accordance with law.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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