

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9166 of 2015

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Manji Yadav, son of Mahendra Yadav Resident of village- Mungaon,
Police Station- Koran Sarai, District- Buxar.

.... Petitioner

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 Office-Cum-Authorized Officer, Rohtas Forest
Division , Sasaram , District- Rohtas.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh

For the Respondent/s : Mr. AC to GP-28

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 27-11-2015 Heard Sri Rajni Kant Singh, learned counsel for
the petitioner and learned AC to GP-28.

The petitioner, invoking writ jurisdiction of this
Court under Article 226 of the Constitution of India, has
prayed for directing the Respondent no.3 to provisionally
release his truck , bearing Registration No.UP-60T/1459
(hereinafter referred to as the “vehicle in question”) pending
confiscation proceeding vide Confiscation Case no.102 of
2015.

Learned counsel for the petitioner submits that the
vehicle in question was illegally seized on 09.06.2015 on an
allegation of carrying stone chips and, thereafter, an F.I.R.



vide Forest Case no.49 of 2015 was registered for the offence under Sections 33, 41 and 42 of the Forest Act. Besides initiating criminal case vide Forest Case no.49 of 2015, a confiscation proceeding vide Confiscation Case no. 102 of 2015 has also been initiated. He submits that in the confiscation proceeding, the petitioner appeared and filed his show cause. Besides filing his show cause, the petitioner also filed a petition for release of the vehicle in question. He submits that though such petition for release of the vehicle in question was filed on 23.06.2015, till date, neither any order has been passed on the petition filed by the petitioner for release of the vehicle in question nor confiscation proceeding has been concluded. Learned counsel for the petitioner has placed reliance on an order dated 16.02.2015 passed in C.W.J.C.No.377 of 2015 in support of his argument for provisional release of the vehicle in question. Learned counsel for the petitioner has also placed reliance on a recent Division Bench Judgment of this Court passed on 06.11.2015 in L.P.A. No. 2024 of 2015. He submits that the petitioner case stands on similar footing and makes a prayer for similar relief. He undertakes that as and when required, the petitioner will produce the vehicle in question before the authority concern.

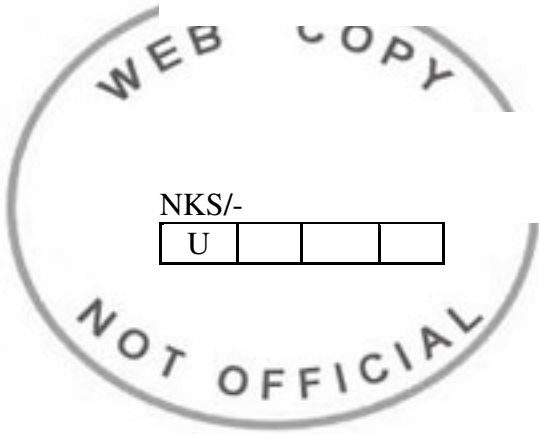
Learned State Counsel, by way of referring to the averments made in the counter affidavit, has opposed the prayer of the petitioner. He submits that during confiscation proceeding release order may not be passed.

In view of facts and circumstances, particularly the fact that in identical situation, a Single Bench of this Court had passed order for provisional release of the vehicle in question and also the Division Bench recently has approved the provisional release of the vehicle in question, the Court is of the opinion that the petitioner is also entitled for the same relief. Accordingly, the writ petition is allowed with a direction to the Respondent(s) to release the vehicle in question on the following conditions:

(a) The petitioner shall furnish all the necessary papers/documents of ownership and security as may be deemed fit and proper by Respondent no.3/ Authorised Officer-cum- Divisional Forest Officer, Rohtas , Sasaram.

(b) The petitioner shall undertake, in writing , that the vehicle, in question, shall neither be alienated nor be transferred in favour of any third party during the pendency of the confiscation proceeding and that the vehicle , in question, shall be produced as and when called upon or required in the confiscation proceeding or

otherwise.
The writ petition stands allowed.



(Rakesh Kumar, J)