

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3544 of 2015

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Shiv Nath Mahto Son of Ram Briksh Mahto, resident of village- Parariya,
Police Station - Chituya, District - Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Forest and Environment, Bihar, Patna
2. The Divisional Forest officer -cum- Authorised officer, Rohtas, Forest Division, Rohtas at Sasaram
3. The Forester, Parcha, Rohtas

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sanjay Kumar Tiwary, Advocate

For the Respondent/s : Mr. Nadeem Seraj, GP-20

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 17-04-2015 A supplementary affidavit has been filed. Let it

be kept on record.

Heard learned counsel for the parties.

The petitioner in the writ petition seeks a direction to the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, District-Rohtas at Sasaram under the Indian Forest Act, 1927, for provisional release of his vehicle pending adjudication of the confiscation proceedings.

In this case the vehicle of the petitioner stands seized on grounds of alleged violation of the provisions of the Indian Forest Act and which has led to institution of the Forest Case which is now pending consideration in confiscation proceedings before the Authorized Officer who happens to be the



Divisional Forest Officer, Rohtas Forest Division, Rohtas. The contention advanced by the learned counsel for the petitioner is that keeping the vehicle under the open sky to face the vagaries of the weather would serve no purpose and would only turn it obsolete rendering useless for any future use and which would benefit none rather it would only result in loss.

Learned counsel for the petitioner has stated that the petitioner would not be creating any third party right nor he would alienate the vehicle pending disposal of the confiscation case and that he would produce the vehicle as and when required in the confiscation proceedings.

In this case vehicle of the petitioner bearing Registration No. B.R. 24G-7732, Chassis No. RAE008408 and Engine No. RAE008408 was seized on allegations of transporting stone chips without any supportive papers giving rise to Forest Case No. 8 of 2014 which has led to registration of Confiscation Case No. 21 of 2014 pending adjudication before the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division, Rohtas at Sasaram.

I have heard learned counsel for the parties and I have perused the materials on record.

As I have taken note of hereinabove, the vehicle of the petitioner stands seized on allegation of being loaded with



illegally mined stone chips. Though learned counsel for the petitioner has tried to defend the load carried on the vehicle but considering that the matter is pending adjudication before the statutory authority, this Court would express no opinion thereon. However taking note of the circumstances that the vehicle is lying unattended under the open sky to face the vagaries of weather, this Court is of the opinion that allowing the vehicle to turn obsolete would benefit none rather it would only lead to losses and thus this Court would deem fit and proper to order for the provisional release of the vehicle subject to furnishing of supporting papers of ownership and security as deem fit and proper by the authorized officer and which release obviously would be subject to final outcome of the confiscation proceedings.

In the circumstances discussed, this Court would direct the Divisional Forest Officer, Rohtas Forest Division, Rohtas cum Authorized Officer under the Forest Act, 1927 in seisin of the confiscation case which is subject matter of the present proceedings to order for the release of the vehicle in favour of the petitioner within eight weeks of the receipt/production of a copy of the order subject to the fulfillment of the following conditions.

- (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.

With the observations and directions
aforementioned, the writ petition is allowed.

S.Sb/-

(Jyoti Saran, J)

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