

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7854 of 2015

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Parmeshwar Singh, S/o- Mosaheb Singh, R/o Village- Mathura Bagan Garbasa,
P.S.- Golmuri, District- Singhbhum (Jharkhand).

.... 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 Range Officer Sasaram Forest Area at Sasaram.
6. 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 GP 17

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 11-09-2015

On call, learned AC to GP No. 17 again makes a prayer for adjourning the case for filing counter affidavit. Earlier, on 13.8.2015 also, on the prayer made by learned counsel for the State, four weeks time was granted for obtaining instruction and filing counter affidavit. Orally it was made clear that no further adjournment shall be granted. Even thereafter, again same prayer is being reiterated. Accordingly, the prayer for adjournment stands refused.

The petitioner, who is the owner of a truck bearing



Registration No. JH05AA/1484 (hereinafter referred to as the “vehicle in question”) has approached this Court under Article 226 of the Constitution of India with a prayer to direct the respondents to provisionally release his vehicle. It has been argued by learned counsel for the petitioner that his truck loaded with stone chips was seized near Akhori Gola in Dalmiya Nagar. Learned counsel for the petitioner submits that the vehicle loaded with stone chips was moving along proper *challan*. However, same was seized. Besides registering F.I.R. vide Forest Case No. 10 of 2015, a Confiscation Proceeding vide Confiscation Case No. 26 of 2015 was also initiated and after notice the petitioner appeared and filed show cause. Besides filing show cause the petitioner also filed a petition for release of the vehicle in question vide Annexure – “4” to the writ petition. Despite the fact that petition for release was filed on 13.3.2015 till date, on the petition filed for release no order has been passed and the vehicle in question has been kept in open sky. He submits that allowing the vehicle to remain in open sky will certainly allow to destroy the vehicle. Learned counsel for the petitioner submits that petitioner is ready to furnish proper bond and sureties in case vehicle is released in his favour. Learned counsel for the petitioner has also relied on an order passed by a bench of this court in CWJC No. 896 of 2015 in which this court had issued direction for provisional release of the

vehicle in favour of the petitioner of the said case on fulfillment of the following conditions:-

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- (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, the writ petition stands allowed with a direction to provisionally release the vehicle in question in terms of the order dated 16.2.2015 passed in CWJC No. 896 of 2015 as indicated hereibaove.

All the formalities must 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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