

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11962 of 2015

=====

Santan Sunil Kumar , son of Shiv Nandan Prasad, resident of village-
Tendua Dusadhi, Post-Pahleja Police Station-Dehri, District-Rohtas

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Forest Department,
Government of Bihar, Patna
2. The District Magistrate, Rohtas , Sasaram
3. The Divisional Forest Officer-cum- Authorised Officer, Rohtas Forest
Division, Sasaram, Rohtas

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Dhaneshwar Prasad Gupta

For the Respondent/s : Mr. AC to GA-9

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 24-11-2015

Today again on call, a prayer is being made by
learned AC to GA-9 for granting further time for filing
counter affidavit. Earlier twice on the prayer made by learned
State Counsel, the case was adjourned. Firstly, on 14.08.2015,
on the prayer made by learned State Counsel, the case was
adjourned for four weeks for filing counter affidavit.
Thereafter, on 14.09.2015, eight weeks time was granted for
filing counter affidavit. Accordingly, the prayer for
adjournment stands refused.

The petitioner, who claims to be the owner of a
tractor bearing Registration no.BR-24D/6812 and trolley
bearing Registration No.BR-24D/6813 (herein after referred



as the “vehicle in question”), has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to direct the Respondent(s) to provisionally release his vehicle in question, which was seized on 27.06.2015 on an allegation of carrying forest articles.

It was submitted by learned counsel for the petitioner that the tractor was loaded with 300 CFT stone chips on valid challan, however the vehicle in question was illegally seized on an allegation of violation of provision of Forest Act. Besides initiating criminal case vide Forest Case no.54/2013, a confiscation proceeding vide Confiscation Case no. 119/2015 has also been initiated. 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. However, 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 Annexure-5 to the writ petition, which is an order dated 05.09.2014 passed in C.W.J.C.No.12704 of 2014, whereby a Bench of this Court



has disposed of number of writ petition with C.W.J.C.No.12704 of 2014 directing for provisional release of the vehicle on certain conditions. 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.

In view of facts and circumstances, particularly the fact that in similar situation earlier a Single Bench of this Court has allowed the prayer for provisional release as well as 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)

NKS/-

U			
---	--	--	--