

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8840 of 2015

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Umesh Kumar Singh Son of Vishundev Singh, Resident of Village- Gopi Bigha,
P.S.- Dehri, District- Rohtas, At present resident of 85/40, Baily Road, Officers
Flat, Patna

.... Petitioner/s

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 Officer-cum-Authorised Officer, Rohtas Forest Division,
Sasaram, Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh

For the Respondent/s : AC to GA No. 12

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 11-09-2015

Today again, on call, a prayer is being made by learned
AC to GA No. 12 for granting further time for filing counter affidavit.
Earlier, on 13.8.2015 on the prayer made by learned counsel for the
State the case was adjourned for four weeks for obtaining instruction
and filing counter affidavit. While granting time this Court had
orally made it clear that no further adjournment shall be granted. Even
thereafter, again the prayer for adjournment is being reiterated,
which stands refused.

The petitioner, invoking writ jurisdiction of this Court
under Article 226 of the Constitution of India, has prayed for directing
the Respondent No. 3 i.e. Divisional Forest Officer –cum-



Authorized Officer, Rohtas Forest Division, Sasaram, District- Rohtas to provisionally release his Truck bearing Registration No. BR O1GA / 7333 (hereinafter referred to as the “vehicle in question”) in connection with Confiscation Case No. 93 of 2015 (arising out of Forest Case No. 44 of 2015) registered for the offence under Sections 33, 41 and 42 of the Indian Forest Act, 1927 (hereinafter referred to as the “Forest Act”).

Learned counsel for the petitioner submits that stone chips were loaded on the vehicle in question from the crusher machine of licensee Sri Nand Lal Prasad Gupta M/s Sona Stone Chips, Chhatarpur, Jharkhand. The vehicle was moving /carrying the stone chips with valid *challan* which was intercepted on 23.5.2015. Despite the fact that *challan* was produced, the seizure was effected and thereafter, besides registering F.I.R. under the Forest Act Confiscation Proceeding was also initiated vide Confiscation Case No. 93 of 2015. In the Confiscation Proceeding the petitioner filed show cause. Besides filing show cause, he also filed a petition for release of the vehicle in question on 4.6.2015. Despite filing petition for release of the vehicle no order has been passed till date. Learned counsel for the petitioner submits that if the vehicle is allowed lying in open sky then there is every likelihood that the vehicle may be destroyed. He has relied on an order passed by a bench of this court

on 16.2.2015 in CWJC No. 377 of 2015 and other connected writ petitions wherein this Court has noticed that allowing the vehicle to be kept in open sky would certainly allow to destroy the vehicle which will serve no purpose. This Court in the said case while allowing for provisional release had specified certain conditions which are quoted hereinbelow:-

- (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.**

In view of the facts and circumstances, the Court is of the opinion that the writ petition can be allowed in same terms.

Accordingly, the Respondents particularly, the Respondent

No. 3 is directed to release the vehicle in question on the terms and conditions as incorporated hereinabove. All the formalities are required to be completed within a period of four weeks from the date of receipt / production of a copy of this order.

(Rakesh Kumar, J)

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