

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8960 of 2015

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Binod Kumar Gupta S/o Premchand Sah, R/o Village Baijala, P.O. -
Mokar, P.S. - Sasaram (M), District - Rohtas.

.... Petitioner

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 District Forest Officer, Rohtas, Sasaram.
6. The Range Officer Sasaram Forest Ara at Sasaram.
7. The Forestor Tilauthu cum Darigaon, Forest Circle District-Rohtas.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Uma Shankar Singh
For the Respondent/s : Mr. AC to GA-3

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 11-09-2015 Today again on call, a prayer is being made by

learned AC to GA-3 for adjourning the case for obtaining
instruction and filing counter affidavit. On earlier occasion also
i.e. 13-08-2015, on the prayer made by learned counsel for the
State, four weeks' time was granted for obtaining instruction and
filing counter affidavit. On the last date, orally it was made clear
that no further adjournment shall be granted, even then, without
filing counter affidavit, again same prayer is being reiterated.
Accordingly, the prayer for adjournment stands refused.

The petitioner, invoking writ jurisdiction of this Court
under Article 226 of the Constitution of India, has prayed for



directing the Respondents, particularly Respondent no.4 i.e. the Authorized Officer-cum- Divisional Forest Officer, Rohtas, Sasaram to provisionally release of his truck, bearing registration no. BR-26B/8971 (hereinafter referred to as the 'vehicle in question') in connection with Confiscation Case No. 101/2015 (arising out of Forest Case no.48/2015).

Learned counsel for the petitioner submits that his truck, while was moving loaded with 400 CFT stone chips, was intercepted on 08.06.2015. It has been argued that despite the fact that relevant documents were produced, the vehicle in question along with stone chips was unauthorisedly seized on Sasaram-Ara Road and besides lodging an F.I.R. vide Forest Case no.48 of 2015, a confiscation proceeding vide Confiscation Case no. 101/2015 has also been initiated. In the confiscation proceeding, after notice the petitioner being the real owner of the vehicle in question appeared and filed a detailed show cause explaining therein that the vehicle in question was loaded with stone chips from Chhattarpur mining area from M/S Sona Stone Chips, who was having valid mining licence. Besides filing show cause, the petitioner also filed a petition for release of the vehicle in question. The said petition was filed in the month of June, 2015 before Respondent no.4, however, till date no decision has been

taken on his petition.

Learned counsel for the petitioner further submits that the vehicle in question was lying in open sky and there is every possibility of decay of the same. The petitioner is ready to furnish appropriate bond and sureties. He has also relied on an order passed by this Court on 16-02-2015 in C.W.J.C. No. 377 of 2015, which was disposed of along with other writ petitions. In the said case also, direction for provisional release has been granted. Accordingly, learned counsel for the petitioner makes a prayer for directing for provisional release of the vehicle in question in favour of the petitioner.

Keeping in view the fact that by allowing a vehicle in question to remain in open sky may not serve any purpose, save & except, allowing the vehicle to be destroyed, the Court is of the opinion that in view of facts and circumstances, direction can be issued for provisional release of the vehicle in question in favour of the petitioner on 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.

Accordingly, on the aforesaid terms, the Respondents, particularly Respondent no.4 is directed to provisionally release the vehicle in question in favour of the petitioner. All the formalities are required to be completed within four weeks from the date of receipt/production of a copy of this order.

It is made clear that the court below may not be influenced in deciding the proceeding before him on the basis of this order, keeping in view the fact that in this order whatever observation has been recorded that has been recorded only for the purposes of provisional release of the vehicle in question.

The writ petition stands allowed.

(Rakesh Kumar, J)

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