

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1171 of 2016

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1. Ajay Kumar son of Bajrang Sah resident of village - Kaulodehri, P.S. Chauri, Distt - Bhojpur (Ara).

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest And Environment Bihar, Patna
2. The Divisional Forest-cum-Authorised Officer, Rohtas Forest Division, Rohtas.
3. The Forester Tilauthu Range, Rohtas (Sasaram).

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwary, Advocate
For the Respondent/s : Mr. Dhurjati Kumar Prasad, GP-14
Mr. Jahan Ara, AC to GP-14

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 08-12-2016 The present application has been filed seeking quashing of Forest Case No. 97 of 2016 lodged by the respondent No. 3 and the confiscation proceeding to confiscate the vehicle (Truck) bearing Registration No. JH-02P-0218 seized in connection with the said offence.

The petitioner also seeks a direction for provisional release of the said vehicle during the pendency of the confiscation proceeding, which is pending before respondent No. 2, Divisional Forest-cum-Authorized Officer, Rohtas Forest Division, Rohtas.

Once confiscation proceeding has been initiated, it will not be desirable for the Court to pass an order directing release of the said vehicle in a proceeding under Article 226/227 of the Constitution of India, unless exceptional circumstance is made out.



Learned counsel appearing on behalf of the petitioner has submitted that the said vehicle is lying in the open sky and its condition is deteriorating day by day. He has also submitted that the said Forest Case has wrongly been instituted without looking into the challan on the basis of the stone chips were being carried in the said vehicle.

Considering the facts and circumstances and submissions advanced on behalf of the petitioner, the application stands disposed of with a direction to the Divisional Forest-cum-Authorized Officer, Rohtas Forest Division, Rohtas to conclude the confiscation proceeding positively within a period of three months from the date of the receipt / communication of the present order. While deciding the confiscation case, he will be obliged to consider the plea which is being taken on behalf of the petitioner that the said stone chips were being carried on the basis of valid challan.

It is indicated that the petitioner will be at liberty to apply for provisional release of the said vehicle before respondent No. 2, and, if he does so, the respondent No. 2 shall consider and pass necessary order on such request.

This application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

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