

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27317 of 2017

Arising Out of P S.Case No. -183 Year- 2016 Thana -PANCHRUKHI District- SIWAN

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Mannu Kumar, Son of Pramod Kumar, Resident of TCP Gate in Kohima,
Post Office- Kohima, Police Station- Kohima, Nagaland- 797001.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Rana Ishwar Chandra, Advocate

For the Opposite Party : Mr. Sri Ramchandra Sahani, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

2 28-06-2017 Heard both sides.

2. The petitioner seeks quashing of the order dated 04.40.2017 passed by ACJM-VI, Siwan in Panchrukhi (Sarai) P.S.Case No.183 of 2016 whereby and whereunder the petition of the petitioner filed on 07.12.2016 to release the truck was rejected. The petitioner further seeks the quashing of the order 19.05.2017 passed by Additional Sessions Judge-VI, Siwan in Cr.Revision No.104 of 2017. The Additional Sessions Judge rejected the revision and refused to interfere with the order of ACJM-VI, Siwan.

3. The petitioner claims to be registered owner of truck bearing registration no.NL-01K-3374 which was seized by police on the allegation that the same was being used for carrying illegal



sand and that too loaded beyond permissive limit. The petitioner was allegedly involved in illegal mining of sand causing heavy loss to the revenue of government. On the self statement of SHO the above case was registered for the offence under Section 188, 379, 420 and 409 of the IPC and Section 40 of BMC Act, 1972 and Section 3 of Prevention of Damage to Public Property Act, 1984. The prayer of release of vehicle was refused by the court below.

4. The learned counsel for the petitioner submits that the court below has rejected the prayer of release merely on technical ground. The petitioner is registered owner of the said vehicle which was being used for commercial purpose. The vehicle was seized on 02.12.2016 and the petitioner filed petition on 07.12.2016 for its release. The court below called for a report from District Transport Office, Chapra. In this regard, the investigating officer also wrote a letter to the Department and Transport Office to ascertain the ownership of the vehicle. The prayer of release was refused as no report either from the office of the District Transport Office or Mining Department was received. The court below without considering the papers produced on behalf of the petitioner has refused prayer and so the same is fit to be quashed. The learned APP however opposed the prayer of release of the



truck.

5. On perusal of documents annexed with this application, it appears that a report was called for from District Transport Office, Saran, although it bears registration number of Nagaland. In this regard, the investigating officer has also called for a report on 20.01.2017. The court below has refused to release the vehicle as by that time no report was received either from the Transport Office or from the Mining Department. The vehicle is presently kept unattended at an open space and if it is not released immediately in favour of the owner there is every chance of getting its deteriorated and junked.

6. In view of facts stated above, the order of refusal to release the vehicle is quashed and the court below is directed to ascertain the ownership of the vehicle and pass order afresh in accordance with law. This application is accordingly disposed of.

(Sanjay Kumar, J)

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