

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2266 of 2018

Arising Out of PS. Case No.-58 Year-2016 Thana- SAHODARA District- West Champaran

Vijay Kumar Jayaswal @ Vijay Kumar Jaiswal @ Vijay Kumar, Son of Sri Satyanarayan Prasad Jayaswal, resident of Mohallah- Purani Bazaar, Narkatiaganj, P.S.- Shikapur, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Mines and Geology, Government of Bihar, Patna.
2. The District Magistrate, West Champaran, Bettiah.
3. The Superintendent of Police, West Champaran, Bettiah.
4. The Mining Development Officer, West Champaran Bettiah.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma
For the Respondent/s : Mr. Naresh Dikshit

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-10-2018 The present application has been filed seeking release of the vehicles Tractor power Trac bearing registration no. RJ-02-7722 and Trailor bearing Reg. No. BR22-G- 2187 which have been seized in connection with Sahodara P. S. Case No. 58 of 2016 registered under Section 42 of the Indian Forest Act and 491) and 40 (x) of the Bihar Mines and Mineral Concession Rules, 1972.

Learned counsel for the petitioner submits that the vehicles have been seized on wrong pretext as it was not involved in carrying sand and only because the driver fled away leaving the vehicle it was seized by the Police on the allegation that it was carrying sand which was result of the illegal mining.



Learned counsel further submits that the petitioner is ready to abide by the terms and conditions which may be imposed by this Court.

Learned counsel representing the Department of Mines and the State have opposed the prayer of release of the vehicle. It is, however, submitted that presently no confiscation proceeding is pending against the vehicle.

Considering the facts and circumstances of the case where this Court finds that presently no confiscation proceeding is pending with respect to the vehicles which are lying under open sky and over the period they are likely to become a junk and will be of no use, this Court directs provisional release of the vehicles in question mentioned above on the petitioner furnishing two sureties of the like amount each to the extent of the value of the vehicles indicated in the insurance document or as per the invoice of the vehicles whichever is lesser along with the document of registration and ownership of the said vehicles before the court below with an affidavit and undertaking in the following terms:

(i) That the vehicles bearing Engine Number and Chasis number shall not be involved in carrying sand which will be result of illegal mining in future;



(ii) that the petitioner shall not create any third party right or interest in respect of the vehicles and for that reason he will not enter into sale and shall not create any encumbrance in favour of any other party;

(iii) the petitioner shall produce the vehicles as and when required by the competent court/authority and shall abide by the order of the confiscation if any passed by the competent authority.

The court below shall order for release of the vehicle within one week from the date of submission of the surety bond and the undertakings.

In case the vehicle is found involved in similar offence in future, the order granting provisional release of the vehicle in the present case shall also be withdrawn.

This application stands disposed off.

(Rajeev Ranjan Prasad, J)

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