

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2758 of 2017

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Kamlakar Tiwari, son of Ram Bilash Tiwari, resident of Village- Sikari,
P.S.- Baburi, District- Chandauli (U.P.)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Minerals,
Bihar at Patna.
2. The District Magistrate, Aurangabad.
3. The Superintendent of Police, District- Aurangabad.
4. The Officer-in- Charge, Madanpur Police Station, District- Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Pandey

For the Respondent/s : Mr. Md. Raisul Haque (SC 10)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-01-2018 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner has prayed for release of the two Trucks
bearing Reg. Nos. UP65FT3152 and UP65BT5718 which have
been seized by the police in connection with Madanpur P.S. Case
No.262 of 2017 for the offence under Sections 379, 411 of the
Indian Penal Code, Section 40 of the Bihar Minor Minerals
Concessions Rules, 1972 and Section 3 of the Prevention of
Damage to Public Property Act, 1984.



Learned counsel for the petitioner relies upon a Division Bench order of this Court passed in L.P.A. No.1647 of 2015 and submits that the petitioner is ready and willing to abide by the terms and conditions which may be imposed by this Court.

Let the vehicle of the petitioner be provisionally released on production of proof of ownership and registration of the vehicle subject to the following conditions:-

- (i) Petitioner shall furnish surety bond of Rs.10,00,000/- (ten lacs) (not in form of bank guarantee or cash) each with two sureties of the like amount each to the satisfaction of court below or the authority concerned.
- (ii) Petitioner shall furnish an undertaking not to alienate or encumber the vehicle or deal with it adverse to the interest of the State and produce it before the competent authority/court as and when required.
- (iii) A photograph of the vehicle shall be taken and panchnama be also prepared and kept on record.

It shall be subject to result of the decision in LPA No.1647 of 2015 where a question as to whether an executive can pass an order of confiscation is pending consideration.



The application stands disposed of.

(Rajeev Ranjan Prasad, J)

Arvind/-

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