

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2691 of 2017

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Radhe Yadav, Son of Late Balrup Yadav, Resident of Village- Devkathiya,
P.S.- Jangipur, District- Gazipur, Uttar Pradesh.

.... Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary, Mines And Geology Department, Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Mines and Geology Department, Vikas Bhawan, Bailey Road, Patna.
3. The Scientific Officer cum Mines Inspector, Mohania, Kaimur.
4. The Officer In Charge, Kudra Police Station, Kaimur, Bhabua.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh, Adv.

For the State : Mr. Rajesh Kumar, AC to GP-3

For the Mines Geology Department: Mr. Naresh Dikshit, Adv.

Mr. Vivek Anand Amrithesh, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

2 05-01-2018

Heard learned counsel for the parties.

Petitioner is seeking a direction in the nature of mandamus for release of the Truck bearing Reg.No.UP-61K 9912, Engine Number 90F962166439 and Chasis No.MAT42602390G11149 in connection with Kudra P.S. Case No.247 of 2017 under Sections 53, 54 and 75 of the Bihar Minor Mineral Rules, 2017 read with Sections 188 and 420 I.P.C.

Learned counsel for the petitioner submits that ten wheeler truck in question is having a registration certificate, fitness certificate, insurance certificate, certificate of pollution



under control which will be evident from Annexure-1 series. It is his case that the petitioner was having mineral transportation challan dated 11.10.2017 for transportation of sand from the sand ghat to Karmnasha. The sand ghat is said to be settled in favour of Aditya Multicom Pvt. Ltd. for mining of sand. It is stated that while the truck of the petitioner was transporting the sand from the sand ghat to Karmnasha it was stopped for checking and then seized by the transport officer and enforcement sub inspector for alleged overloading and for the said alleged overloading a fine of Rs.22,100/- was also realized from the petitioner by Motor Vehicle Inspector, Kaimur at Bhabhua at the spot itself vide receipt no.4016426 dated 13.10.2017, but thereafter Kudra police came at the spot and on seeing the long queue of vehicles driver was asked to pay Rs.50,000/- per truck as gratification and on non-payment the vehicle was sent to Kudra police station. Serious allegations have been made in paragraph 7 of the writ application by the petitioner.

Learned counsel for the petitioner submits that it would appear from Annexure-3, the relevant page 21, that District Transport Officer had even directed the in-charge of Kudra kaimur police station to release the vehicle because the penalty was already realized and the vehicle was said to be kept in the



premises of the police station only for security purpose. Despite this communication to the police station vehicle has not been released because the petitioner has not fulfilled the illegal gratification. He further submits that the validity of New Bihar Minor Mineral Rules 2017 is under challenge in this Court and the entire Rule has been stayed.

Learned counsel for the State has virtually no reply to the assertion made in the writ application.

In the facts and circumstances, I direct provisional release of the vehicle in question in favour of the petitioner/owner subject to production of document of ownership and on submission of surety bond of Rs.17,00,000/- (seventeen lacs) (Not in form of bank guarantee or cash) with two sureties of the like amount to the satisfaction of court below or the authority concerned.

At the time of release, a photograph and panchnama shall be prepared in accordance with law.

The petitioner shall also give an undertaking that he will not deal with the vehicle in question and shall not alienate or encumber the same creating any kind of adverse interest against the interest of the State, he will not use the vehicle for any illegal purpose and as and when required, he will produce the vehicle in



question before the competent court/authority.

Before parting with this order this Court would like to notice that serious allegations have been made in the writ application which have remained uncontroverted despite service of a copy of the writ application on the State as far back as on 04.12.2017, the Principal Secretary, Mines and Geology Department, Government of Bihar is directed to look into the matter particularly the kind of allegation made in the writ application and do the needful so that the public/truck owner is not unnecessarily harassed.

The application stands disposed of.

(Rajeev Ranjan Prasad, J)

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