

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.24740 of 2017

Arising Out of PS.Case No. -39 Year- 2017 Thana -NOKHA District- SASARAM (ROHTAS)

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Guddu Singh @ Guddu Singh, son of Sri Chandradhan Singh, resident of Village-
Khairahi, P.S.- Kargahar District- Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Observer District Mines and Minerals Office, Sasaram, District- Rohtas.

.... Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr. Md. Arif, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 20-02-2018

By way of By way of the present application preferred under Section 482 of the Code of Criminal Procedure, the petitioner has challenged the order dated 18.04.2017 passed by the learned Sub-Judge IX-cum-A.C.J.M., Sasaram, Rohtas in G.R. No. 504 of 2017 arising out of Nokha (Dharpura) P.S.Case No. 39 of 2017 by which he has rejected the application filed by the petitioner for release of the Tractor bearing Registration No. BR-24G-3733 and Trailer bearing Registration No. BR-24G-3734 in favour of the petitioner on the ground that the said vehicle is involved in the case registered inter alia under Sections 379 and 411 of the Indian Penal Code and Sections 7 and 8 of the Bihar Minerals (Prevention of



Illegal Mining, Transportation and Storage) Rules, 2003.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. In the opinion of this Court, the impugned order passed by the learned Sub-Judge IX-cum-A.C.J.M., Sasaram, Rohtas cannot be sustained in view of the fact that the same is not only cryptic but the learned Magistrate has also failed to take note of the binding law laid down by the Supreme Court in ***Sunderbhai Ambalal Desai vs. State of Gujarat [(2002) 10 SCC 283]***, ***Sunderbhai Ambalal Desai vs. State of Gujarat [(2002) 10 SCC 290]*** and ***General Insurance Council and Ors vs. State of Andhra Pradesh & Ors. [(2010) 6 SCC 768]*** while rejecting the application for release of the vehicle in question filed by the registered owner.

4. Accordingly, the impugned order dated 18.04.2017 passed by the learned Sub-Judge IX-cum-A.C.J.M., Sasaram, Rohtas in G.R. No. 504 of 2017 arising out of Nokha (Dharmapura) P.S.Case No. 39 of 2017 is set aside and the matter is remanded back to the court below. The court below shall hear the matter afresh and decide the same in accordance with law after taking into consideration the ratio laid down by the Supreme Court in the aforementioned cases as early as possible and preferably within four weeks from the date of receipt/production of a copy of the order.



5. The application stands allowed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21-02-2018
Transmission Date	21-02-2018

