

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1581 of 2018

Arising Out of PS. Case No.-822 Year-2017 Thana- HILSA District- Nalanda

=====
Kanhaiya Sharma @ Anand Kaushal, S/o Nawal Kishore Kumar, Resident of
Village- Dariyapur, P.S.- Parwalpur District- Nalanda, at present 302 Nutan
Vihar, Chitragupta Nagar, P.S.- Kankarbagh, Patna. Petitioner

Versus

1. The State of Bihar, Through The Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Mines and Minerals Department, Govt. of Bihar,
Patna.
3. The District Magistrate, Nalanda.
4. The Superintendent of Police, Nalanda.
5. The Officer in Charge, P.S.- Hilsa, Nalanda.

... .. Respondents

=====
Appearance :

For the Petitioner/s	:	Mr. Hansraj, Advocate
For the Mines	:	Mr. Naresh Dikshit, Advocate
		Mr. Brij Bihari Tiwary, Advocate
For the State	:	Mr. Md. Obaidullah, AC to SC

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 11-07-2018 The petitioner is seeking release of the JCB Machine bearing registration no. BR01GC-4845 which has been seized in connection with Hilsa P. S. Case No. 822 of 2017 for the offences punishable under Section 379 of the Indian Penal Code and Rules 4/40 of Bihar Minor Minerals Concession Rules, 1972 and Section 8 of Illegal Mining Transportation and Storage Rules, 2003.

Learned counsel for the petitioner submits that he had provided the machine to a contractor for use on rental basis, however, the contractor seems to have indulged the same in the activity not permissible in law. It is further submitted that the machine is lying in open sky and continued seizure of the



machine would only render it useless and after some times it will become worthless.

Learned counsel for the State and learned counsel representing respondent no. 2 are present.

Considering the facts and circumstances of this case, at this stage, this Court is willing to order a provisional release of the vehicle in question on furnishing of two sureties to the satisfaction of the court below.

Learned counsel for the petitioner submits that no confiscation proceeding has yet been initiated for the vehicle in question.

The court below shall also obtain an undertaking from the petitioner that during the pendency of the case and or pending initiation of the confiscation proceeding of the vehicle in question, he will not transfer the ownership or create third party interest with respect to the vehicle in question. The petitioner shall also undertake that he will produce the vehicle in question before the court below or before the appropriate authority as the case may be whenever directed to do so.

This writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

avin/-

U		T	
---	--	---	--

