

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1804 of 2018

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Jagdeo Yadav S/o Babu Lal Yadav, R/o Vill.- Joripar, P.S.-
Belhar, District- Banka.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Mines and Mineral, Govt. of Bihar, Patna.
3. The District Magistrate, Banka at Banka, District- Banka.
4. The Mining Officer , Banka at Banka, District- Banka.
5. The Circle Officer, Block- Belhar at Belhar, District- Banka.
6. The Superintendent of Police, Banka at Banka, District- Banka.
7. The Officer In Charge, Belhar P.S. at Belhar, District- Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Adv

For the Respondent/s : Mr. Gyan Prakash Ojha (Ga 7)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

- 2 31-07-2018 The petitioner seeks release of his Mahindra & Mahindra (Tractor and Trailer) bearing Reg. No. BR-51G-2202 and BR-51G-2201 which has been seized in connection with Belhar P.S. Case No. 134 of 2018 (G.R. No. 1676 of 2018) dated 22.05.2018 instituted for the offences under Sections 379/411 of the Indian Penal Code, 4/40 of the Bihar Minor Minerals Concession Rule, 1972 and 8(d) of the Bihar Mineral (Prevention of Illegal Mining,



Transportation & Storage) Rule, 2003.

The learned counsel for the petitioner has submitted that pursuant to a valid *challan*, the trailer of the tractor was loaded with sand. On demand by the concerned Police Officer, the *challan* was produced by the driver of the tractor but was maliciously not accepted and the case has been lodged. He has further submitted that till date no confiscation proceeding has been initiated.

The learned counsel for the petitioner submits that he is ready and willing to abide by the terms and conditions which may be imposed by this Court for the provisional release of the vehicle in question.

In that view of the matter, pending initiation or finalization of the confiscation proceeding, let the vehicle of the petitioner in question be released provisionally within one week from the date of production of proof of ownership and registration of the vehicle in favour of the petitioner, subject to the following conditions:-

- (i) The petitioner shall furnish surety bond (not in form of a bank guarantee or cash) for the value of the vehicle in question as indicated in the insurance document with two sureties of the like amount to the satisfaction of the to the satisfaction of the District Magistrate, Banka/authority concerned.
- (ii) 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.

(iii) At the time of release, the concerned authority/Court shall get prepared a photograph duly certified in presence of the petitioner and *panchnama* of the vehicle in question shall also be prepared and keep the same on record which may be used as secondary evidence.

(iv) The petitioner shall undertake not to challenge the said photograph and *panchnama* so prepared in his presence at the time of release of the vehicle in question for use in course of trial or the confiscation proceeding, as the case may be.

This order shall, however, be subject to the result of Cr. W.J.C. No. 2446 of 2017 (Rahul Kumar @ Rahul Vs. The State of Bihar & Ors.).

The application is, accordingly, allowed.

(Ashutosh Kumar, J)

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