

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1699 of 2018

Arising Out of PS. Case No.-45 Year-2018 Thana- KURTHA District- Jehanabad

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Jitendra Kumar S/o Late Shiv Lakhan Prasad, R/o Vill.- Karpi, P.S.- Karpi,
District- Arwal.

... .. Petitioner/s

Versus

1. The State of Bihar Through The Principal Secretary, Mines And Mineral Department, Government of Bihar, Patna.
2. The District Magistrate Cum Collector, Arwal.
3. The Superintendent of Police, Arwal.
4. The Officer In Charge, Kurtha P.S., District- Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manish Kumar, Advocate
For the Respondent/s	:	Mr. Naresh Dikshit, Spl. P.P.
		Ms. Kalpana, Advocate
For the State	:	Mr. Obaidulla, AC to SC-10

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 09-10-2018 The present application has been filed seeking release of the vehicles bearing registration no. BR56G-1352 having Engine No. S325H98248, Chasis No. 926113141257 and Trailor bearing Reg. No. BR56-G-1353 which have been seized in connection with Kurtha P. S. Case No. 45 of 2018 registered under Sections 414, 420/34 of the Indian Penal Code and Section 40 of the Bihar Mines and Mineral Act and Rule 6 of Bihar Mining Rule, 2003.

Learned counsel for the petitioner submits that the vehicles have been seized on wrong facts as it was not involved in carrying sand and only because the driver fled away leaving



the vehicle it was seized by the Police on the allegation that it was carrying sand which was result of the illegal mining. It is further submitted that the application seeking release of the vehicle has been rejected vide Annexure-2 by learned Chief Judicial Magistrate, Arwal.

Learned counsel submits that the application has been rejected on the ground that the petitioner was not the owner of the vehicle on the date of seizure and therefore, it would not be just and proper to release the vehicle in favour of the petitioner.

Learned counsel submits that it has come in the impugned order of learned C.J.M. that the vehicle is registered in the name of the petitioner but the date of registration is 28.03.2018 where the vehicle was seized on 26.03.2018. Learned counsel further submits that the petitioner is ready to abide by the terms and conditions which may be imposed by this Court.

Learned counsel representing the Department of Mines and the State have opposed the prayer of release of the vehicle. They jointly submit that the petitioner was carrying sand by illegally extracting the same and by putting a wrong registration number on the vehicle. It is, however, submitted that presently no confiscation proceeding is pending against the



vehicle.

Considering the facts and circumstances of the case where this Court finds that the chasis number and engine number of the vehicle seized in connection with the aforesaid case is the same as mentioned in the registration certificate showing registration no. BR56G-1352 and BR56-G-1353 which are the document of registration of the vehicles in the name of the petitioner and that presently no confiscation proceeding is pending with respect to the vehicles which are lying under open sky and over the period they are likely to become a junk and will be of no use, this Court directs provisional release of the vehicles in question mentioned above on the petitioner furnishing two sureties of the like amount each to the extent of the value of the vehicles indicated in the insurance document or as per the invoice of the vehicles whichever is lesser along with the document of registration and ownership of the said vehicles before the court below with an affidavit and undertaking in the following terms:

(i) That the vehicles bearing Engine Number and Chasis number shall not be involved in carrying sand which will be result of illegal mining in future;

(ii) that the petitioner shall not create any third party



right or interest in respect of the vehicles and for that reason he will not enter into sale and shall not create any encumbrance in favour of any other party;

(iii) the petitioner shall produce the vehicles as and when required by the competent court/authority and shall abide by the order of the confiscation if any passed by the competent authority.

The court below shall order for release of the vehicle within one week from the date of submission of the surety bond and the undertakings.

In case the vehicle is found involved in similar offence in future, the order granting provisional release of the vehicle in the present case shall also be withdrawn.

This application stands disposed off.

(Rajeev Ranjan Prasad, J)

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