

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.918 of 2018

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Santosh Kumar, S/o- Late Lalbabu Rai, Resident of Village-
Mathiyapur, P.O.- Jamsaut, P.S.- Sahpur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Mines
& Geology Deptt., Government of Bihar, Patna.
2. The District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The Station House Officer of Bihta Police Station, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha

For the O.P. : Mr. Md. Raisul Haque (SC-10)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

- 3 24-07-2018 By the aforesaid writ petition, the petitioner has sought release of Hydraulic Pocklane Machine, bearing Chassis No. OACE001786, Model No. Tata Hitachi ZX210LCH 1, which has been seized in connection with Bihta P.S. Case No. 529 of 2016, instituted for the offences under Sections 147, 148, 149, 379, 414, 406, 420, 467, 468, 471 and 387 of the Indian Penal Code, which is pending before learned Additional Chief Judicial Magistrate, Danapur, Patna.



The aforesaid machine/apparatus is meant for excavating sand. The aforesaid machine was seized while sand was being unauthorizedly excavated. The offences alleged in the F.I.R. pertain to the provisions of the Indian Penal Code.

From the writ petition, this Court is not in a position to get any clue whether the petitioner has prayed for its release before the competent authority. The present writ petition appears to be misconceived as the prayer for release has been made straightway by invoking Article 226 of the Constitution of India, without exhausting the remedies which are available to the petitioner under the Code of Criminal Procedure.

The petition is misconceived and is, therefore, dismissed.

However, the petitioner shall have the liberty to approach the competent Court/authority for the release of his vehicle/machine referred to above. As and when such a petition is filed on behalf of the petitioner, the Court/authority concerned shall pass orders without being influenced by the fact that the present writ petition has not been entertained by this Court.

(Ashutosh Kumar, J)

Praveen-II/-

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