

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2443 of 2018

In
Civil Writ Jurisdiction Case No.8964 of 2018

Arising Out of PS. Case No.-127 Year-2017 Thana- KHAJEKALA District- Patna

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1. Saurabh Kumar, Son of Sri Umesh Yadav, Resident of Shiv Mandir, NawabFatak Masjid, DulliGhat, Police Station- Khajekalann, District- Patna.
 2. Ram Sarup Ray @ Ram Swarup Ray, Son of Rameshwar Ray, Resident of Mohalla- NawabKothi, Police Station- Khajekalann, District- Patna.
 3. Mohit Ray, Son of Late Sukhi Ray, Resident of T.T Venture, Pvt. Ltd. Vaishali, Hajipur, P.S. Ganga Birdge, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary, Home Department, Government of Bihar, Old Secretariat, Patna- 800001.
2. The Director General of Police Bihar, Office at the Police Headquarters, Old Secretariat, Patna- 800015.
3. The Principal Secretary, Mines and Geology Department, Govt. of Bihar, Old Secretariat, Patna.
4. The Senior Superintendent of Police, Patna- 800001.
5. The Assistant Director Mines, District Mines & Mineral Office, Patna.
6. The Thanadhyaksha, Khajekalan, Police Station Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dharendra Kumar Gupta
For the Respondent/s	:	Mr. Asit Kumar Jha, AC to GP-2
For the Mines	:	Mr. Naresh Dixhit, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 11-10-2018 The present application has been filed seeking provisional release of the vehicles Tractor bearing registration no. UP62H-1217 and Trailor bearing Reg. No. BR01GB-5725 in favour of petitioner no. 1, Tractor bearing registration no. BR31G-2022 and Trailor No. BR31G-2023 in favour of petitioner no. 2 and Tractor bearing registration no. BR31G-



8898 and Trial No. B101GD-2634 in favour of petitioner no. 3, which have been seized in connection with Khajekalan P. S. Case No. 127 of 2017 registered under Sections 379, 120B of the Indian Penal Code, Sections 4 and 40 of of the Bihar Mines and Mineral Concession Rules, 1972 and Section 8 of B. M. P. Illegal Mining Act.

Learned counsel for the petitioners submits that the vehicles have been seized on wrong pretext as it was not involved in carrying sand and only because the drivers fled away leaving the vehicles it was seized by the Police on the allegation that those were carrying sand which was result of the illegal mining.

Learned counsel further submits that the petitioners are 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 vehicles. It is, however, submitted that presently no confiscation proceeding is pending against the vehicles.

Considering the facts and circumstances of the case where this Court finds 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 petitioners 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 in favour of the petitioners before the court below with an affidavit and undertaking in the following terms:

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

(ii) that the petitioners shall not create any third party right or interest in respect of the vehicles and for that reason they will not enter into sale and shall not create any encumbrance in favour of any other party;

(iii) the petitioners 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 vehicles



within one week from the date of submission of the surety bond and the undertakings.

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

This application stands disposed off.

(Rajeev Ranjan Prasad, J)

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