

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.869 of 2019

Arising Out of PS. Case No.-401 Year-2018 Thana- KOTWALI District- Munger

Md. Salahuddin Son of Md. Jahangir, Resident of Village- Karajee P.O.-
Madhodih, P.S.- Sangrampur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Deptt. of Mines & Geology,
Govt. of Bihar, Patna
2. The District Magistrate, Munger (Bihar)
3. The Superintendent of Police, Munger (Bihar)
4. The Mining Development Officer, Munger (Bihar)
5. The Station Home Officer, Kotwali (Purab Sarai) Police Station, Munger
(Bihar)

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raj Kumar Choudhary, Advocate
For the Respondent/s	:	Mr. Sunil Kumar Mandal, SC-3
		Mr. Arjun Prasad, AC to SC-3

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 24-06-2019

This application has been listed under the heading "To Be Mentioned" at the request of learned counsel for the petitioner.

2. It submitted by the learned counsel for the petitioner that from perusal of the FIR it would be evident that a tractor was seized along with trailer. Though registration number of the tractor has been given in the FIR, the trailer



number is not mentioned. In that view of the matter, the defect, as pointed out by the registry that registration number of trailer at para-1 and Para-16 does not tally with the FIR and the seizure list is erroneous.

3. In view of the submissions made above, the sole defect, as pointed out by registry is ignored.

4. Heard learned counsel for the petitioner on merits.

5. This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for directing the District Magistrate, Munger to release the trailer bearing registration no.BR-53-9013 seized in connection with Kotwali (Purabsarai) P.S. Case No.401 of 2018 registered under Sections 379 and 401 of the Indian Penal Code and Sections 4 and 40 of the Bihar Miner Minerals Concession Rules, 1972.

6. Learned counsel for the petitioner contended that the petitioner is the owner of the tractor and the trailer seized in connection with Kotwali (Purabsarai) P.S. Case No.401 of 2018. The said property is not the subject matter of any theft. The FIR has been instituted on the allegation that the vehicle in question was engaged in carriage of illegally mined sand. He has contended that the petitioner was plying his



vehicle on hire. He was not aware of the fact as to whether the sand loaded on his vehicle was legally or illegally mined. He has further contended that prolonged detention of trailer in the police station would make it a junk.

7. On query, learned counsel for the petitioner submitted that till date no confiscation proceeding has been initiated for confiscating the tractor or trailer seized in connection with the aforesaid police case.

8. On the other hand, learned counsel appearing for the State submitted that the petitioner has a statutory remedy available for redressal of his grievance. He ought to have moved for release of trailer in question before the Magistrate concerned in whose court the criminal case is pending. He contended that even if an adverse order would be passed by the Court of Magistrate, the petitioner would have a remedy of revision before the Court of Session or this Court under Sections 397 and 401 of the Code of Criminal Procedure.

9. I find substance in the submissions of the learned counsel for the State.

10. In view of the availability of an equally efficacious statutory remedy under Section 451 of the Code of Criminal Procedure to the petitioner for the redressal of his



grievance, I am not inclined to entertain this application in extraordinary writ jurisdiction.

11. The application is dismissed with liberty to the petitioner to move before the Magistrate concerned for relief prayed for in the present application.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.06.2019
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