

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1233 of 2019

Arising Out of PS. Case No.-61 Year-2019 Thana- HARNAUT District- Nalanda

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DIWAKAR SHARMA @ DIWAKAR PRASAD SHARMA Son of Suresh
Nandan Prasad Sharma Resident of Village - Poari, P.S.- Harnaut, District-
Nalanda

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Mines Deptt., Govt. Of Bihar, Patna
2. The District Magistrate, Nalanda
3. The Superintendent of Police, Nalanda
4. The Mines Development Officer, District Mining Office, Nalanda
5. The Station House Officer, Harnaut Police Station, Nalanda

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Hansraj, Advocate
For the Respondent-State:		Mr.Sunil Kumar Mandal, SC-3
		Mr. Bipin Kumar, AC to SC-3
		mr. Ravi Ranjan Kumar Singh, AC to SC-3
For Mining	:	Mr. Naresh Dikshit, SPP Mining
		Ms. Kalpana, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 27-08-2019

This application has been filed by the petitioner under Articles 226 and 227 of the Constitution of India seeking release of EICHER Tractor Model 380 Super DI bearing Chassis No. 919313156117, Engine No. D64822 seized by SHO, Harnaut in



connection with Harnaut P. S. Case No. 61 of 2019 dated 17.02.2019 registered *inter alia* under Section 379 of the Indian Penal Code and other provisions of the Mines and Minerals (Development and Regulation) Act, 1957, Bihar Minor Mineral Concession Rules, 1972 and Bihar Minerals (Prevention of Illegal Mining Transportation & Storage) Rules, 2003.

2. On query, learned counsel for the petitioner submitted that neither any confiscation proceeding has been initiated nor any application under Section 451 of the Code of Criminal Procedure (for short 'CrPC') has been filed by the petitioner before the court of Magistrate where the matter is pending.

3. In view of an equally efficacious statutory remedy being available to the petitioner under Section 451 of the CrPC for redressal of his grievance, I am not inclined to entertain this application under Articles 226 and 227 of the Constitution of India.

4. The application is dismissed.

5. However, the petitioner would be at liberty to file an application under Section 451 of the CrPC before the court of Jurisdictional Magistrate for release of the vehicle in question.



6. In case, such an application is filed, the learned Magistrate shall be required to look into the merits of the case and pass orders in accordance with law without being prejudiced in any manner by the order being passed by this Court.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2019
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