

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18420 of 2019

Pradeep Kumar @ Pradip Kumar, Son of Dhodhay Prasad Sah @ Doday Prasad Sah, Resident of Village- Priyankar, Ward No. 05, Sondip, P.S.- Dhamdaha, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Mines and Mineral, Government of Bihar, Patna.
3. The District Magistrate, Banka.
4. The Enforcement Officer, District Mining Office, Banka, District- Banka.
5. The Officer-in-Charge, Banka Police Station- Banka, District- Banka.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr.Shailendra Kumar Singh, Advocate
For the State	:	Mr.Prasant Pratap, G.P.-2
For the Mines	:	Mr. Naresh Dikshit, Spl.P.P. Mines

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

5 25-09-2019 Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State as well as the learned counsel for the Mines Department.

The petitioner seeks writ for releasing the truck vehicle, bearing No.BR 11GA-3473, which has been seized in connection with Banka P.S. Case No.126 of 2019 dated 03.03.2019 under Sections 419, 420, 467, 468, 471, 120B/34 of the Indian Penal Code, under Section 8 of the B.M.P.I.M.T.S. Rules, 2003, under Section 40 of the B.M.M.C. Rules, 1972 and Section 15 of the Forest & Environment Act, 1986.

Learned counsel for the petitioner submits that the



aforementioned truck was seized for carrying sand, which is said to have been illegally mined and without any valid *Challan* or permit. It is being submitted by the learned counsel for the petitioner that the aforementioned vehicle was given to one transporter on contract and the sand, which was recovered on the said truck, was not in his possession and the Driver and the *Khalasi* of the seized truck had obtained the *Challan* for carrying the sand so seized on 03.03.2019 from the Ghat Owner, namely, Mahadeo Enclave Pvt. Ltd. It is further submitted by the learned counsel for the petitioner that the present petitioner is only the owner and has no concern with the alleged Ghat Owner. The transporter was in possession of the truck when the aforesaid sand was seized and he had no knowledge as to whether any *Challan*, which was seized therefrom, was forged or genuine. It is further submitted that till date, no confiscation proceeding has been initiated nor any notice has been communicated to the petitioner by the Court of Collector-Cum-District Magistrate, Banka. He therefore submits that since the truck is undergoing wear and tear and is suffering from vagaries of weather, the truck may be released in favour of the petitioner.

Two sets of counter affidavits have been filed; one on behalf of the State of Bihar and another on behalf of the



Department of Mines, in which they have opposed the prayer of the petitioner stating that the vehicle was found to have been loaded with sand for which there had been forged *Challan* prepared by the persons and the petitioner being the owner has a joint liability. They thus submit that the proposal for confiscation of the truck has already been initiated and therefore, it would be best that a direction be issued for disposing of the confiscation case rather than release of the vehicle.

However, considering the entire facts and circumstances and that the truck has been lying idle in the open sky for the past six months, this Court directs that the aforementioned truck, bearing No.BR 11GA-3473, which has been seized in connection with Banka P.S. Case No.126 of 2019 dated 03.03.2019, be released by the appropriate authority within a period of four weeks from the date of receipt/production of a copy of this order. The said release shall, however, be subject to the following conditions:

(i) The petitioner shall deposit two indemnity bonds of Rs.5,00,000/- (Five Lacs) each before the authority concerned; and

(ii) The petitioner shall produce the vehicle as and



when required before the authority and any violation of the
aforementioned two conditions shall subject the petitioner to
further proceeding and confiscation.

With the aforementioned observations and directions,
the present application stands disposed of.

(Anjana Mishra, J)

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