

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22588 of 2019

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Ram Naresh Sharma Son of Late Ram Keshwar Sharma Resident of Village-
Tiyara Khurd, Police Station- Chutiya, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment, Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The Divisional Forest Officer cum- Authorized Officer Rohtas, Forest Division, Rohtas at Sasaram.
4. The Superintendent of Police Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Tiwary
For the Respondent/s : Mr.Raghwanand (Ga11)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 19-11-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner seeks release of his vehicle (Tractor) bearing registration No. BR-24H-4760, Chassis and Engine No. NVT-5177 (Mahindra & Mahindra Ltd.) and Trailer No. BR-24G-1465 for which the petitioner has a valid owner book. Learned counsel for the petitioner submits that the aforementioned vehicle was seized while it was carrying boulder from Tiyara Khurd protected forest area and sent to the Divisional Forest Officer, Rohtas at Sasaram for confiscation of the vehicle. Learned counsel for the petitioner submits that the SHO has wrongly mentioned the Chassis number though there



is a number plate both on the Tractor and its trailer, but only with a view to confuse the petitioner's plate number has not been mentioned therein. Learned counsel for the petitioner also submits that the said vehicle which was seized by the SHO clearly indicates that neither the Forest Officer nor the Forest Guard found the seized tractor under the jurisdiction of the protected Forest Area nor were they present at the time of seizure.

Learned counsel for the petitioner submits that the aforesaid boulders were collected from his own Raiyati land and, therefore, it was not necessary that he be in possession of any licence. Moreover, they had been picked up for the purpose of repair of the road at the request of the local people who were to gather for the *Nag Puja* which was to be held on 15.08.2018.

He submits that though an appeal has been filed against the order passed by the District Forest Officer, the same has been kept pending and, therefore, during the pendency of the case, the petitioner's vehicle may be released, subject to the usual conditions on furnishing of sureties to the satisfaction and in tune with the value of the vehicle. Learned counsel for the petitioner thus submits that the vehicle in question is languishing and it would be in the interest of justice that the



same be released in his favour.

Learned counsel for the State, however, submits that the vehicle was found in forest area by the SHO which is indicated in the seizure-list, but the seizure-list does not contain the signature of either the Forest Officer, but merely bears the signature of only two of the witnesses of the raiding team of the SHO.

Having heard learned counsel for the petitioner and learned counsel appearing on behalf of the State, it appears that the petitioner has filed an appeal bearing Appeal No. 06 of 2019 arising out of confiscation Proceeding No. 38 of 2018 (Arising out of Forest Case No. 26 of 18) issued under the signature of Divisional Forest Officer-cum-Authorized Officer, Rohtas at Sasaram. Accordingly, the vehicle in question (Tractor) bearing registration No. BR-24H-4760, Chassis and Engine No. NVT-5177 (Mahindra & Mahindra Ltd.) and Trailer No. BR-24G-1465 is directed to be released subject to the following conditions:-

(i) The appellant shall furnish all the necessary papers/documents of ownership and security bonds (which will not include Bank Guarantee) as may be deemed fit and proper by the Collector-cum-Appellate Authority, Rohtas at Sasaram.



(ii) The appellant shall undertake, in writing, that the vehicle, in question, shall neither be alienated nor be transferred in favour of any third party during the pendency of the appeal and that the vehicle, in question, shall be produced as and when called upon or required in the confiscation proceeding or otherwise.

With the aforementioned directions, the writ applications stands disposed of.

It is made clear that the appeal of the petitioner should also be heard expeditiously and decided in accordance with law within a period of eight weeks from date of passing/production of a copy of this order.

(Anjana Mishra, J)

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