

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7742 of 2020

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Rani Singh, aged about 42 years, Female, W/o Anuranjan Kumar Singh,
Resident of Village- Mohanpur, P.S.- Shambhuganj, District- Banka.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Vikash Bhawan, Bailey Road, Patna.
2. The Mines Commissioner- Cum-Principal Secretary, Mines and Geology Department, Government of Bihar, Vikash Bhawan, Bailey Road, Patna.
3. The District Magistrate Banka, District- Banka.
4. The Mineral Development Officer Banka, District- Banka.
5. The Officer-In- Charge Belhar Police Station, District- Banka.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Pranav Kumar Jha, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha, G.A.-7

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 18-09-2020 Heard learned counsel for the petitioner and learned
counsel for the State through Virtual Court Proceeding.

Learned counsel for the petitioner submits that he
will remove all the defects, as pointed out by the office, as and
when the normal Court would start functioning.

In this case, the petitioner is seeking release of her
JCB Machine bearing Registration No. BR-51G-1244, which
was seized by the Police for excavating the sand from the river
and registered a case vide Belhar P.S. Case No. 203 of 2019 for
the offence under Section 379 / 411 of the Indian Penal Code



read with Sections 8(a) and 8(b) of the Bihar Mineral (Prevention of Illegal Mining Transportation and Storage) Rules, 2003, under Section 40 of the BMMC Rule, 1972 and under Section 15 of the Environment Protection Act, 1986.

Learned counsel for the petitioner submits that the said vehicle was on the road but, wrongly the Police has seized the vehicle, which is lying under the open sky in the police station and ultimately it will be of no use, so the vehicle of the petitioner may be released. He has placed reliance on different orders of this Court including C.W.J.C. No.3544 of 2015, wherein the Court has entertained the writ petition and given direction for release of the vehicle.

Under Chapter-34 of Sections 451 to 459 of the Criminal Procedure Code, the legislature has been prescribed for release of the materials seized by the Police. Hence, there is an alternative remedy is available to the petitioner to approach the Court below and make a prayer for release of her vehicle as provided under the Cr.P.C.

It has been informed that the case is pending before the Chief Judicial Magistrate, Banka. In such view of the matter, the petitioner is directed to file an application before the Chief Judicial Magistrate, Banka, for release of the vehicle. If such an



application is filed, the Chief Judicial Magistrate, Banka, will consider and dispose of the same within a period of four weeks from the date of filing of the application considering different judgments of this Court as well as keeping in mind that standing of the vehicle under the open sky in the police station will be a national loss.

With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

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