

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.665 of 2023

Arising Out of PS. Case No.-838 Year-2022 Thana- NAWADA District- Nawada

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MUKESH YADAV @ MUKESH PRASAD YADAV Son of Shiv Balak
Yadav R/V- Basochak P.S- Barsaliganj Dist- Nawada

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Dept. of Mines Govt. of Bihar, Patna Bihar
2. The District Magistrate, Nawada Bihar
3. The Superintendent of Police, Nawada Bihar
4. The Deputy Superintendent of Police, Nawada Bihar
5. The Officer In-Charge Town, P.S- Nawada Bihar
6. The In-charge (Kadirganj) PS Nawada Bihar
7. The Mines Inspector, Nawada Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar
For the Respondent/s	:	Mr.Gyan Prakash Ojha
For the Mines Department	:	Mr. Naresh Dixit

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

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| 3 | 19-09-2023 | <ol style="list-style-type: none">1. Heard learned Counsel for the petitioner, learned Counsel for the State and learned Counsel for the Mines Department.2. The present writ application has been filed by the petitioner for release of the truck, bearing registration no. NL 02L/7789 in favour of the petitioner, which was seized in connection with Town (Kadirganj) Police Station Case No. 838 of 2022, registered for the offences punishable under Sections 379/411/413 of the Indian |
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Penal Code.

3. The brief facts, giving rise to the present writ application, is that the Mines Inspector, Nawada, on the basis of secret information regarding the illegal transportation, storage and extraction of sand, raided in village Bishanpur and seized one truck, having 650 CFT of illegally mined sand. It has further been alleged that due to the illegal transportation/extraction/storage of sand by the truck of the petitioner, the Government incurred a loss of Rs. 2,34,998/-.
4. Learned Counsel for the petitioner submits that the petitioner is the owner of the truck, in question, and the manner in which the truck, in question, has been kept under the open sky, it will lose its road worthiness. However, learned Counsel for the petitioner submits that without prejudice to his right and contention, the petitioner is ready to pay the amount of fine of Rs. 2,34,998/- imposed upon the truck of the petitioner in three instalments, first of Rs. 1,00,000/-, second instalment of Rs. 67,998/- and the third and final instalment of Rs. 67,000/-.
5. Learned Counsel for the Mines Department accepts the



offer so made by learned Counsel for the petitioner.

6. Having regard learned Counsel for the parties and on finding that the petitioner is the registered owner and the vehicle, in question, which is lying under open sky and would be definitely causing a loss to the petitioner and the vehicle is losing its road worthiness with passing of every day, keeping in view the principles laid down by the Supreme Court in the case of **Sunderbhai Ambalal Desai vs. State of Gujarat**, reported in **(2002) 10 SCC 283**, followed by **General Insurance Council and Others Vs. State of Andhra Pradesh and Others**, reported in **2010 (6) SCC 768**, this Court directs the learned District Court, at Nawada, to release the truck in favour of the petitioner after verifying the ownership of the same within a period of three weeks from the date of receipt/production of a copy of this order, subject to the following conditions:-
- (i) That the petitioner shall furnish adequate bank guarantee of Rs. 5,00,000/- (five lakhs) to the satisfaction of the learned District Court.
 - (ii) That the petitioner will produce the proof of deposit of Rs. 1,00,000/- at the time of furnishing bank guarantee;



(iii) That the petitioner shall deposit the rest two instalments, as indicated above, positively by 7th day of November, and December, 2023 and submit the receipts showing such deposit before the learned District Court.

(iv) That before handing over the truck to the petitioner, a detailed and proper *panchnama* of the said vehicle, after taking its photograph, shall be prepared.

(v) That the petitioner shall also furnish an undertaking on oath that he shall not alienate or part with the ownership of the vehicle, in question, till pendency of the trial.

(vi) In case, the petitioner makes default in the payment of any of the instalment, the learned District Court will proceed to encash the bank guarantee submitted by the petitioner and will also issue necessary direction to the Mines Department/Police to seize the vehicle, in question.

(vii) That the petitioner shall also furnish an undertaking that if any confiscation proceeding is initiated, he will co-operate in that proceeding and produce the vehicle, in question, as and when required by the confiscation authority.

7. This application is allowed with the aforesaid observation



and direction.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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