

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10729 of 2023

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Saroj Sah, Son of Sri Harishchandar Sah, resident of Village- Hathaura,
Badka Tola, P.O.- Hathaura, P.S.- Hussainganj, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Mines and Geology Department, Government of Bihar, Patna.
3. The District Magistrate, Siwan, District- Siwan.
4. The District Mining Officer, Siwan, District- Siwan.
5. The Mines Inspector, Siwan, District- Siwan.
6. The Station Head Officer, Panchrukhi Police Station, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S. B. K. Manglam with Mr. Awnish Kumar, Advocates
For the Respondent/s	:	Mr. S.K. Mandal, SC-3 Mr. Neelam Kumari, AC to SC-3
For the Mines	:	Mr. Naresh Dikshit, Spl. P.P. Mrs. Kalpana, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 05-10-2023

Heard Mr. S.B.K. Manglam, learned counsel for the
petitioner and Mr. Naresh Dikshit, learned Spl. P.P. for the
Mines.

2. The petitioner claims to be the owner of twelve
wheeler truck, bearing Registration No. UP-53BT 4487, Engine
No.11B62996050 and Chasis No. MAT466375B5B04332 filed
the present writ petition seeking the following reliefs:

*“(I) For issuance of an
appropriate writ in the nature of*



CERTIORARI for quashing the seizure list dated 23.11.2022 prepared by the Respondent no.5 and contained in his letter no. Camp-01/M/ Siwan dated 23.11.2022 whereby and where under the Respondent no.6 was pleased to seize the petitioner's twelve wheels truck bearing Reg. No. UP-53BT-4487, (Registration number of truck has been wrongly mentioned in the seizure list as U253AT-4487.) on the ground that the challan of the mines (yellow sand) loaded on the truck has expired.

(II) For issuance of an appropriate writ in the nature of ***MANDAMUS***, commanding and directing the Respondent Authorities for release of the petitioner's seized truck from the custody of Respondent no.6 i.e. Station Head Officer, Panchrukhi Police- Station on the ground that the petitioner was carrying the yellow sand under a valid challan dated 28.11.2022 and because of technical defects coming in his truck, the petitioner's truck could not reach the destination within the validity of challan and, therefore, the seizure of the petitioner's vehicle on the expiry of the validity of challan only is thoroughly illegal, impracticable and arbitrary in law.

(III) For issuance any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the



facts and circumstances of the case”

3. It is submitted that the vehicle, in question, having National Permit granted by the competent authority, valid up to 01.03.2026, had also obtained a certificate of fitness from the Inspecting Authority, Gorakhpur R.T.O. till 22.06.2023, was engaged for transportation of goods, including sands and minerals.

4. On 21.11.2022, the petitioner's vehicle had loaded 500 Cft yellow sand from Brahmchari Construction, LLP Cluster, Bhojpur and a valid Challan, bearing no. 166651221121025832790 was granted, which was valid until 2.58.32A.M. of 22.11.2022. While the petitioner's vehicle was on the way for its destination, in the meantime, on account of some technical problem, the vehicle stuck on the road and could not reach to the destination before expiry of validity of Challan. In support of the aforesaid averments, the petitioner has also brought on record a Tax Invoice issued in favour of the petitioner by Raj Kumar Automobiles, Babunia More, Siwan, by way of Annexure-P-5, showing mechanical repairing of the truck. After removal of the technical issue of the vehicle, when it proceeded for its destination, in the meantime, it was intercepted by the Mines Inspector, Siwan at Panchrukhi Toll Plaza. On demand being made, the petitioner had produced all



the papers/documents regarding the ownership of the vehicle in the name of the petitioner along with the valid challan, based upon which he had loaded yellow sand on his truck.

5. It is submitted that even though the vehicle was under load, but only because few hours before reaching destination when the petitioner's truck was intercepted, the validity of Challan had lapsed, thus the Inspector Mines (respondent no.5) seized the petitioner's truck on 23.11.2022 at 9.00 A.M. and handed over to the House Station Officer, Panchrukhi Police Station for its safe custody.

6. While assailing the impugned seizure list dated 23.11.2022 prepared by the respondent no.5, as contained in letter no. Camp-01/M/Siwan dated 23.11.2022 it is contended that according to Challan it was valid upto 2.58.32A.M. of 22.11.2022 and it was seized by respondent no.5 on 23.11.2022, notwithstanding the driver of the petitioner's vehicle had produced before respondent no.5, the Invoice of Garage, suggesting performance of mechanical work of the petitioner's truck for repairing its defect. He further submits that Jam on Ara-Chapra Road is known to all which consumes even a couple of days for a vehicle to cross Veer Kuer Singh Setu at River Ganges near Doriganj in the district of Saran and, therefore, if



the validity of valid challan had expired either due to Jam or any mechanical problem of the vehicle, the seizure of the vehicle even after production of repairing tax Invoice of garage is thoroughly impracticable and unwarranted in law.

7. He lastly submits that the petitioner's vehicle is standing in open sky since the date of its seizure, causing huge financial loss. That apart, unauthorized seizure of the vehicle has been held to be National loss by the Hon'ble Supreme Court as also by this Court in catena of decisions, hence the present writ petition for release of the vehicle, in question, at the earliest.

8. On the other hand, Mr. Dikshit, learned Spl. P.P. (Mines) while drawing the attention of this Court to transportation Challan, as contained in Annexure-P/4 submits that from bare perusal of the same it prima facie appears that the name of the owner and the number of the vehicle is different, as has been mentioned in the writ petition. He further submits that the petitioner's vehicle was intercepted by the Mines Inspector and on demand, the driver of the vehicle failed to produce valid challan for transportation of yellow sand and thus there is no infirmity in the seizure. It is also submitted that with regard to the fact of any mechanical problem or sticking of the vehicle in



Jam, it had never been informed to any authority of the Mines. Moreover, the matter has been referred to the Collector and thus the petitioner has remedy before the Collector.

9. Learned counsel for the State also reiterates the submissions made on behalf of the learned Spl. P. P. for mines.

10. This Court has carefully considered the submissions made on behalf of the parties. The vehicle, in question, of the petitioner has been allegedly seized during the illegal transportation of the sand, though the same has been denied by the petitioner. A hard fact has been placed before this Court that vehicle is lying unattended under the open sky facing the vagaries of the weather, as a result of which the condition is fast deteriorating and in case of its non release, on any appropriate condition, it may get damaged and become junk.

11. Before relegating the matter to the District Magistrate, Siwan, this Court feels it apt to record the observations made by the Hon'ble Supreme Court in the case of ***Sunder Bhai Ambalal Vs. State of Gujarat*** reported in [(2002) 10 SCC 283] which reads as follows:

“17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of



the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”

12. This Court is of the opinion that since the matter is pending adjudication before the Collector no observation is required on the merit of this case. However, taking note of the aforesaid facts that the vehicle is lying in open, uncared for, expose to vagaries of weather, resulting into fast deterioration of its condition and turning it to a junk and obsolete, which would certainly benefit none, rather it would lead to losses, this Court deems fit and proper to order for provisional release of the vehicle, bearing Registration No. UP-53BT 4487, subject to furnishing of supporting papers of ownership and security as deem fit and proper by the authorized officer and the release obviously would be subject to final outcome of the confiscation proceeding.

13. It is further directed that the petitioner will ensure his appearance in the proceeding pending before the Collector–cum–District Magistrate, Siwan on the date fixed in the case and shall fully co-operate in the said proceeding.

14. The Collector– cum–District Magistrate, Siwan while fixing the bond for release of the vehicle, in question, shall take into account the consideration the value of the vehicle



as mentioned in the last insurance policy of the vehicle.

15. The petitioner will also give his undertaking that he will not create any third party right and to produce the vehicle in the confiscation case as and when required/directed.

16. It is made clear that the provisional release of the vehicle as directed hereinabove, by the Collector– cum–District Magistrate, Siwan, shall be effected within a period of two weeks from the date of receipt/production of a copy of this order.

17. In view thereof, the present writ application stands allowed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.10.2023
Transmission Date	NA

