

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57731 of 2022**

Arising Out of PS. Case No.-104 Year-2021 Thana- HULASGANJ District- Jehanabad

LALAN SINGH @ LALAN KUMAR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Sanjay Kumar
For the Opposite Party/s :	Mr. Naresh Dikshit, Spl. PP Mines Mr. Utsav Anand, J.C. To Mr. Naresh Dikshit.

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 21-03-2023 Heard the parties.

This application has been filed on behalf of the petitioner for quashing the order dated 09.06.2022 passed by learned Judicial Magistrate, 1st Class, Jehanabad in connection with Hulasganj P.S. Case No. 104 of 2021.

Learned Special Counsel for the Mining Department has filed counter affidavit and the same is taken on record.

Learned counsel for the petitioner submits that he is marginal farmer and doing his agriculture work. The tractor in question which has been seized by the authorities was not being used for illegal transportation of sand but this fact cannot be verified at the stage when the case has to go for trial.

Learned counsel for the petitioner further submits that he is ready to face trial and he is also ready to give documents



of his agricultural land for release of the tractor. The petitioner further undertakes that in case he is convicted in the trial then the amount of fine may be recovered from auctioning the land of the petitioner.

Learned counsel for the Department of Mines opposes the case and submits that the petitioner may be directed to deposit the entire fine and then only the tractor may be released.

I have considered the submission of the parties.

In my view this is a harsh case for a marginal farmer. When the tractor was recovered it was carrying no sand and the fine was imposed on the petitioner only on the basis of suspicion that the petitioner is also involved in illegal transportation of sand.

Also this Court is of the view that the petitioner should produce sufficient security by way of documents of land in his favour before the Judicial Magistrate, 1st Class, Jehanabad and after verifying the documents the learned Magistrate shall release the tractor with trailer.

The petitioner will also give an undertaking that he will not sell the tractor & trailer during pendency of the trial and if the petitioner is convicted in the trial then the amount of fine shall be recovered by auctioning the land of the petitioner the papers



of which are submitted by the petitioner.

With the aforesaid observations this application is allowed.

Accordingly, the order dated 09.06.2022 passed by learned Judicial Magistrate, 1st Class, Jehanabad in connection with Hulasganj P.S. Case No. 104 of 2021, is hereby quashed.

Let a copy of this order be communicated to the District Judge, Jehanabad through FAX and e-Mail for its compliance forthwith.

(Sandeep Kumar, J)

Vikas/Shishir

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