

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.138 of 2024

Arising Out of PS. Case No.-569 Year-2023 Thana- KOILWAR District- Bhojpur

Prakash Kumar, S/o Rambabu Rai, R/o Village- Semra Rampur Bindgawan,
P.S- Barhara, District- Bhojpur.

... .. Petitioner

Versus

1. The State of Bihar through the Dy. Secretary of the Dept. of Mines, Bhojpur.
2. The District Magistrate, Bhojpur.
3. The Superintendent of Police, Bhojpur.
4. The Circle Officer cum Mines Superintendent, Bhojpur.
5. The Station House Officer, Koilwar, Bhojpur.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Manoj Kumar, Advocate
For the State	:	Mr. Naresh Dikshit, SC-5

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 25-01-2024 Heard learned counsel for the petitioner and learned
counsel for the Department of Mines.

2. This writ application has been filed seeking a writ in the nature of Mandamus directing the respondent authorities to release Poklane, Hydraulic Excavator-XCMG which has been seized in connection with Koilwar P.S. Case No. 569 of 2023 dated 21.09.2023 under Sections 379, 411, 34 of the Indian Penal Code, Sections 56(I), 56(II) of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Amendment Rules, 2021 and Sections 4/21 of the Mines and Minerals (Development & Regulation) Act, 1957.

3. Learned counsel for the petitioner submits that the



Poklane has been seized in connection with Koilwar P.S. Case No. 569 of 2023 dated 21.09.2023 under Sections 379, 411, 34 of the Indian Penal Code, Sections 56(I), 56(II) of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Amendment Rules, 2021 and Sections 4/21 of the Mines and Minerals (Development & Regulation) Act, 1957

4. Learned counsel for the petitioner submits that the petitioner is ready to pay the fine for release of the Poklane. He is owner of the vehicle.

5. Learned counsel for the Department of Mines submits that a confiscation proceeding has been initiated by the District Magistrate, Bhojpur which appears from Annexure '3' to the writ application. The vehicle in question is listed at Serial No. 35 of Annexure '3'.

6. Learned counsel for the Department of Mines submits that the District Magistrate before whom the confiscation case is pending is competent to pass an order for release of the vehicle during the confiscation proceeding, therefore, the petitioner should have applied for release of the vehicle before the District Magistrate.

7. Having regard to the facts and circumstances of the



case, there being a specific plea on behalf of the Department of Mines that the District Magistrate is competent to pass an appropriate order on an application for release of the seized vehicle, this Court grants liberty to the petitioner to make an appropriate application before the District Magistrate, Bhojpur seeking release of the seized vehicle. If such an application is filed within a period of 30 days from today, the same will be considered by the District Magistrate, Bhojpur and an appropriate order in accordance with law shall be passed thereon within a maximum period of 60 days thereafter.

8. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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