

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No 702 of 2024

Arising Out of PS. Case No.-493 Year-2022 Thana- BARUN District- Aurangabad

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Golu Kumar @ Golu Singh Son Of Late Dhananjay Kumar Singh R/O-
Bibipur, P.O.-Bhadwa, P.S.-Rafiganj, Distt.-Aurangabad

... .. Petitioner/s

Versus

1. The State Of Bihar, Through The Addl. Chief Secretary, Mines And Minerals Department Government Of Bihar, Patna
2. The Superintendent Of Police, Aurangabad Bihar
3. The District Transport Officer, Aurangabad Bihar
4. The Incharge Of Police-Station, Barun, Aurangabad Bihar
5. The Mining Development Officer, Aurangabad Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Santosh Kumar Pandey, Advocate
For the S t a t e	:	Mr Raghwendra Kr, SC XXII
For the M i n e s	:	M/s Naresh Dikshit, Kalpana, Advocates

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 22-07-2024

This writ petition has been filed by the petitioner for releasing the Tractor bearing Registration No BR26GB-4360, Chassis No TO52453869KH, Engine No E2460619 in his favour.

2 Facts of the case are that on 12.11.2022, the above mentioned vehicle has been seized by Mines Inspector, Aurangabad which was caught overloaded with 120 Cft of sand without challan causing loss of revenue to the State of Bihar. On the basis of information given by the Mines Inspector, the SHO,



Barun Police Station registered Barun PS Case No 493 of 2022 under Sections 379, 411 of IPC, Section 4 (1A), 21 of Mines and Minerals (Development and Regulation) Act 1957, Section 15 of the Environment Protection Act, 1986 and Rules 11,18 of Bihar Minerals (Concession, Prevention of illegal Mining, Transportation and Storage) Rules, 2019 and Rule 56 of amended Rule 2021 against the driver of the said vehicle as well as the owner, i e, the present petitioner. The petitioner deposited all the costs of the penalty, as assessed by the Mines Department. Subsequently, office of the District Transport Officer, Aurangabad imposed a penalty of Rs 62,306/- on the ground that the vehicle was used by the owner for commercial purposes and other irregularities were also found. The petitioner, for releasing the said vehicle, firstly made an application before ACJM I, Aurangabad. The ACJM I, Aurangabad in GR No 2690 of 2022, vide order dated 19.07.2023, rejected the application of the petitioner. Subsequently, revision petition, preferred by the petitioner, has also been rejected by the learned Additional Sessions Judge III, Aurangabad in Criminal Revision No 76 of 2023/19 of 2023 by its order dated 02.09.2023. Hence, this petition has been preferred by the petitioner.



3 Heard the learned counsel appearing for both the parties. Perused the impugned orders and other materials available on the record.

4 Counter affidavit filed by the respondent-State clearly shows that the compounding cost, as assessed by the Mines Department, has already been deposited by the petitioner to the Mines Department. The record further shows that the Investigating Officer of the case also has filed no objection for releasing the vehicle. Both the Courts below have rejected the application for releasing the vehicle submitted by the petitioner only on the ground that the Transport Department imposed penalty of Rs 62,306/- and the petitioner refused to deposit the said penalty amount.

5 Learned counsel appearing for the Transport Department could not point out any of the provisions which show that on the ground of non-deposition of the penalty, the seized vehicle is liable to be confiscated. Facts remain that vehicle has been seized by the Mines Department and police has already registered FIR under Sections 379, 411 of IPC, Section 4 (1A), 21 of Mines and Minerals (Development and Regulation) Act 1957, Section 15 of the Environment Protection Act, 1986 and Rules 11,18 of Bihar Minerals (Concession, Prevention of illegal Mining,



Transportation and Storage) Rules, 2019 and Rule 56 of amended Rule 2021. Further, considering the fact that the Investigating Officer of the case has already submitted before the Court that for the purposes of enquiry, the said vehicle is not further required. Facts of the case further show that the compound cost, levelled by the Mines Department, has also been deposited by the petitioner. Accordingly, it is found that the petitioner, who is the registered owner of the said vehicle, is entitled to take the possession of the seized vehicle temporarily till the decision of Barun PS Case No 493 of 2022.

6 Accordingly, the writ petition is allowed.

7 It is directed that the seized vehicle be released in favour of the petitioner on submission of personal bonds of Rs 4 lacs with two sureties of the like amount each to the satisfaction of the trial Court with a condition that when the vehicle is required, the petitioner will produce the same.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2024
Transmission Date	25.07.2024

