

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 741 of 2023

Arising Out of PS. Case No.-705 Year-2022 Thana- TEKARI District- Gaya

Manoj Kumar @ Manoj Sharma S/O Pashuram Sharma Resident of Village-
Tepa, P.S.- Tekari, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Home Secretary, Bihar, Patna
2. The District Magistrate, Gaya. Bihar
3. The Senior Superintendent Of Police, Gaya. Bihar
4. The Deputy Superintendent Of Police, Tekari, Gaya. Bihar
5. The Officer-In-Charge, Tekari, Police Station, Gaya. Bihar
6. The Principal Secretary, Mines And Mineral Department, Govt. Of Bihar, Patna. Bihar
7. The District Mines Officer, Gaya. Bihar
8. The Mines Inspector, District Mining Range, Gaya. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Aryan Singh, Adv.
For the Mining	:	Mr. Naresh Diskshit Kalpana, Adv.
For the State	:	Mr. Ajay Kumar, (AC to GP-4)

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 21-02-2024 The petitioner has approached this Court in
constitutional writ jurisdiction for the following relief(s):

“(i) For setting aside the order dated 19.01.2023 passed by the learned Additional Chief Judicial Magistrate, Gaya in Tekari P.S. Case No. 705 of 2022 whereby and where under the application filed by the petitioner for release of his vehicle bearing Registration No. BR-0W-6533 having Engine No. D76035 and Chassis No. 921914176099 has been rejected as not maintainable.

(ii) Further to direct the respondent authorities to release the vehicle bearing Registration No. BR-02W-6533 having Engine No. D76035 and

Chassis No. 921914176099 in favour of the petitioner as he has already paid the fine amount as estimated by the Mining Department.

(iii) And/or for any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioners are found entitled under the facts and circumstances of the case.”

2. The case of the petitioner in brief is that Tekari P.S.

Case No. 705 of 2022 has been instituted on the basis of a complaint submitted by one Dipanshu Singh, Mines Inspector, Gaya (hereinafter referred to as the informant) alleging *inter-alia* that he received a call on 20.10.2022 that a raid has been conducted in respect of illegal mining and in course of the said raid, one tractor loaded with sand was seized. The informant went to Panchanpur O.P., where upon inquiry, he found that sand measuring about 110 C.ft. was loaded in the said tractor. There was no valid challan for transporting the sand. Accordingly, the tractor of the petitioner loaded with sand was seized under proper seizure list. The petitioner deposited fine amount and compounding fees, as per Rule 56 of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to as ‘the Rules of 2019’) after the expiry of the period of one month from the date of commission of offence which has been prescribed in sub-rule (4) of Rule 56 of the Rules of 2019 and

submitted an application before the learned A.C.J.M.- VIth, Gaya for release of the said vehicle. The learned A.C.J.M.- VIth, Gaya by an order dated 19.01.2023, refused to release the said vehicle because of the fact that the amount of fine along with compounding fees were not deposited within one month from the date of commission of offence, as contemplated in sub-rule (4) of Rule 56 of the Rules of 2019.

3. It is submitted by the learned Advocate on behalf of the respondent no. 3 that confiscation proceeding of the said seized vehicle has already been recommended and therefore, the seized vehicle cannot be released at this stage. By filing a counter-affidavit, the respondent nos. 2, 7 & 8 contend that the petitioner failed to comply with the direction contained in sub-rule (4) of Rule 56 of the Rules of 2019; therefore, the petitioner's prayer for releasing the vehicle was rightly rejected by the learned Magistrate.

4. The learned Advocate for the petitioner refers to an unreported decision of this Court passed by a Co-ordinate Bench on 22.01.2024 in Cr. W.J.C. No. 1093 of 2023 (*Arvind Prasad Vs. The State of Bihar & Ors.*), where under the similar facts and circumstances, the seized vehicle was directed to be released, condoning the delay in depositing the fine amount and the compounding fees by the petitioner.

5. It is submitted by the learned Advocate for the

respondent no. 2 that if confiscation order is passed in the meantime, the seized vehicle cannot be returned.

6. Having regard to the aforementioned submissions and in view of the fact that the learned counsel, Department of Mines submits that when the compounding fees and fine amount has been received by the department, the department has no objection if the tractor is released, provided no final order of confiscation is passed in this case.

7. This Court disposes of the instant writ petition directing the respondent-Department of Mines through its Officers to release the vehicle in question on submission of proof of ownership and the proof of deposit of the entire fine amount and compounding fees, if the final order of confiscation is not passed till this date.

8. Consequential order, if any regarding the release of vehicle, if required, will be passed by the learned Magistrate within two weeks from this date. The instant writ petition is disposed of with the above direction.

(Bibek Chaudhuri, J.)

sadique/-

U		T	
---	--	---	--