

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1093 of 2023

Arising Out of PS. Case No.-45 Year-2022 Thana- BODHGAYA District- Gaya

Arvind Prasad @ Arvind Kumar @ Arvind Prasad Yadav Son of Late Kedar
Yadav Resident of village - Kaiya Tola, Maniyara, P.S. - Mufassil, Distt. -
Gaya

... .. Petitioner

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Patna
2. The Principal Secretary Mines and Mineral Department, Government of Bihar, Patna
3. The District Magistrate, Gaya
4. The Senior Superintendent of Police, Gaya
5. The Deputy Superintendent of Police, Bodhgaya, Gaya
6. The Officer-in-Charge, Bodhgaya Police Station, Gaya
7. The District Mines Officer, Gaya
8. The Mines Inspector, District Mining Range, Gaya

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Singh, Advocate
For the Respondent/s	:	Mr. Suman Kumar Jha, AC to AAG-III
For the Mines	:	Mr. Naresh Dikshit, Spl. PP
	:	Mr. Utsav Anand, Advocate
	:	Ms. Kalpana, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 22-01-2024 Heard learned counsel for the petitioner, learned

counsel for the State and learned Special P.P. for the Department

of Mines.

2. Petitioner in the present case is seeking the
following reliefs:-

(i) For setting aside the order dated
02.12.2022 passed in Cr. Rev. No. 126 of 2022 by the
learned Additional Sessions Judge-2, Gaya in
Bodhgaya P.S. Case No. 45 of 2022 whereby and

whereunder the application filed by the petitioner for release of his vehicle red colour Mahindra Tractor bearing Registration No. BR02GC-3036, Chasis No. MBNABACAAMRC08647, Engine No. RMC2BBN0886 has been dismissed.

(ii) For setting aside the order dated 10.06.2022 passed by Sri Kumar Saurabh Bhanu, Judicial Magistrate, 1st Class, Gaya in Bodhgaya P.S. Case No. 45 of 2022 in which vehicle of the petitioner has not been released.

(iii) Further to direct the respondents authorities to release the vehicle bearing Registration No. BR02GC-3036, Chasis No. MBNABACAAMRC08647, Engine No. RMC2BBN0886 in favour of the petitioner as he has already paid the fine amount as estimated by the mining department.

(iv) 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.

3. As per the prosecution story, the informant has reported that on 30.01.2022 at 10:00 am, in course of inquiry and search at Ghato near P.S. Bodhgaya the driver of the tractor bearing Chasis No. MBNABACAAMRC08647, Engine No. RMC2BBN0886 on seeing the police party fled away after leaving the tractor which was loaded with 100 cubic feet sand. Accordingly the same was seized and brought to the Police Station.

4. Learned counsel for the petitioner submits that the

petitioner has already deposited the entire fine amount as assessed by the Mines Department, still the vehicle in question has not been released.

5. It is next submitted that the petitioner filed an application in the court of learned Chief Judicial Magistrate for release of vehicle which was rejected vide order dated 10.06.2022 passed by learned Judicial Magistrate, 1st Class, Gaya whereafter petitioner applied in revision before the learned Sessions Judge, Gaya but the said revision application being Cr. Revision No. 126 of 2022 has also been dismissed vide order dated 02.12.2022. It is submitted that despite deposit of the entire fine amount, the vehicle in question is stranded and is losing its road worthiness for last about two years. The learned court below has rejected the application for release of the vehicle without application of its judicial mind only on the ground that the fine amount was deposited after more than a month.

6. Mr. Naresh Dikshit, learned Special P.P. for the Department of Mines submits that he has advised the Department of Mines to release the vehicle in question in other cases where fine amount has been deposited after more than a month and this Court has also passed similar kind of direction.

In that view of the matter, he would have no objection if the vehicle is released, provided the petitioner furnishes the proof of deposit of entire fine amount as demanded by the Mines Department.

7. Having regard to the aforementioned submissions and the stand of the Department of Mines, this Court sets aside the impugned order passed by the learned Additional Sessions Judge-II, Gaya in Cr. Rev. No. 126 of 2022. The respondent-Department of Mines through it's officers is directed to release the vehicle in question on submission of proof of ownership and the proof of deposit of the entire fine amount. Consequential order, if so required, will be passed by the learned Magistrate within two weeks from today.

8. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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