

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9080 of 2023

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Roshan Kumar Singh @ Roshan Kumar Son of Lalmohan Singh Resident of
Village- Sahora, P.S.- Tarapur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Mines and Geology Department, Government of Bihar, Patna.
2. The Principal Secretary, Mines and Geology Department, Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Collector, Munger.
5. The Superintendent of Police, Munger.
6. The Mineral Development Officer, Munger.
7. The Motor Vehicle Inspector, Munger.
8. The District Transport Officer, Munger.
9. The Station House Officer, Sangrampur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Kamal Nayan, Adv.
For the Respondent/s	:	Mr. Gyan Prakash Ojha, GA-7
For the Mines	:	Mr. Naresh Dikshit, Spl. PP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 01-08-2024 Heard the parties.

2. The present writ application has been filed for the
following relief(s):-

“(i) In the nature of Certiorari for setting aside the order dated 19.12.2022, passed by the learned Sessions Judge, Munger, in Criminal Revision No. 06/2022, whereby the learned Sessions Judge Munger has affirmed the order dated 25.11.2021 passed by the learned Judicial Magistrate 1st Class, Munger.

(ii) In the nature of Certiorari for setting aside order dated 25.11.2021 passed by the learned Judicial Magistrate 1st Class, Munger, whereby the learned court below has rejected the petition which was filed by the petitioner for release of Tractor and Trailer/vehicle which was seized by the informant in connection with Sangrampur P.S case No 236/2020 dated 10.12.2020 registered u/s 379/411 of I.P.C., Section 4/21 of MM(DR) Act, 1957 and Section 11/56 of BMMC Rule, 2109.

(iii) In the nature of Mandamus for directing and commanding the respondent authorities to release the Tractor and Trailer/vehicle of the petitioner which is only source of his livelihood of his family.

(iv) In the nature of Mandamus for directing and commanding the respondent authorities to pay compensation to the petitioner for illegal confinement of the Tractor and Trailer/vehicle.”

3. On the basis of written statement made by the District Mining Officer, Munger, an F.I.R. bearing Sangrampur P.S. Case No. 236 of 2020 was lodged under Section 379/411 of the I.P.C. read with Section 4/21 of the MM(DR) Act, 1957 and Section 11/56 of the BMMC Rule, 2019 against both the petitioner (who claims to be the owner) as also the driver.

4. As per the F.I.R., on 10.12.2020, one red colour Mahindra Tractor and Trailer without registration no. loaded with sand was seized, as it was indulged in illegal mining without any valid challan.

5. The petitioner claims to be the owner of the seized tractor bearing Engine No. RJL2EAN0683 Chassis No. MBNABAEXPJRL04194 and Registration No. BR46G3479. It is his case that he was having valid challan, but as he failed to gratify the respondents, the seizure/case. The petitioner thereafter wanted release of the vehicle which came to be rejected on 25.11.2021 by the learned Judicial Magistrate 1st Class, Munger on the ground that the engine no. does not match with the vehicle registration.

6. Aggrieved, Criminal Revision No. 06 of 2022 (***Roshan Kumar Singh @ Rohan Kumar Vs. State & Ors.***) was filed before the learned Sessions Judge, Munger which again came to be dismissed on 19.12.2022. It would be appropriate to incorporate the short order which reads as follows:-

“This Criminal Revision has been preferred against order dated 25.11.2021 passed in Sangrampur P.S. case no. 236 of 2020 (G.R. No. 2309/2020) by Sri Ashwani Kumar, J.M. 1st Class, Munger wherein and whereunder the learned Court below has

rejected the petition of the Revisionist for release of seized vehicle i.e. tractor and trailer.

(2) It has been submitted that the order passed by the learned Lower Court is bad both in law and on facts. The reason assigned by the learned Lower Court are not proper and sound. The learned Lower Court passed the order in mechanical way. The learned Lower Court passed the order without perusing the paper of verification report and D.T.O. report. The learned Lower Court passed the order without perusing the Mining Officer report. The learned Lower Court has not applied his Judicial mind at the time of passing of the order. The impugned order is bad and fit to set aside.

(3) Short facts giving rise to this case are that the informant of this case namely Nidhi Bharti, District Mining Officer, Munger, after receiving secret informant, organised a raiding party on 10.12.2020 at 08.05 A.M. and raided Sahoura Ghat and seized one red colour Mahendra tractor and Trailer bearing no registration number, loaded with sand. The driver of the said vehicle managed to flee away. F.I.R. in this regard was registered. Revisionist was granted anticipatory bail after verifying

original Challan by learned A.D.J.-Vth, Munger. The in the FIR, informant has initially mentioned Engine No. 00651126081 in place of Engine no RJL2EA No. 0683, so the Revisionist filed a petition before the learned Lower Court and prayed to direct the I.O. to verify the details of vehicle and submit report and accordingly the L.O. submitted report which shows the Tractor bearing Registration no. BR 46G 3479; Engine no. RJL 2EA No. 0683, Chassis no. MBNABAEXPJRL04194, which is on the record and same was also confirmed by the D.T.O. Munger mentioned in case diary para 13. The Revisionist filed a petition for release of the said seized vehicle but the learned Magistrate the petition and mentioned that " Engine number of the seized vehicle and the vehicle which is prayed for release on the basis of registration certificate does not match and further mentioned that seized vehicle is recommended for confiscation as per para 25 of the case diary.

(4) Heard the learned counsel for the parties and perused the impugned order and entire L.C.R.

(5) From perusal of the impugned order it is clear that Engine number of seized

vehicle and the vehicle which is prayed to be released on the basis of registration certificate does not match and the release of the vehicle must be in favour of rightful owner and for deciding rightful owner it is necessary that Registration of seized vehicle and registration certificate of the proposed owner must match. In this case same is not matching.

(6) Considering above facts and circumstances of the case, I find that there is no jurisdictional error in the impugned order. In result this Criminal Revision is accordingly dismissed.”

7. Aggrieved, the present petition.

8. Learned counsel for the petitioner submits that he has valid paper to show that the seized tractor and trailer belongs to him and no one other than the petitioner has claimed to be the ownership of the seized vehicle.

9. Mr. Naresh Dixit, learned Special Public Prosecutor, Mines on the other hand submits that the demand made by the petitioner regarding release of the vehicle must match with the chassis no. which has been seized.

10. This Court has also noted the fact that the vehicle is presently recommended for confiscation and there is nothing on record to show, what is the present fate.

11. The entire case hinges on the registration/ownership of the vehicle but perusal of the writ petition would show that no document relating to the vehicle has been incorporated/attached.

12. There is a genuine apprehension of the respondents that the engine no. does not match with the claim made by the petitioner and in that background, the least that was expected to provide all the details of the registration paper/issuance/pollution to claim his *bona fide*. In its absence, the writ petition is fit to be dismissed for want of necessary documents.

13. Accordingly, the present writ petition stands dismissed.

(Rajiv Roy, J)

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