

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41766 of 2023

Arising Out of PS. Case No.-609 Year-2022 Thana- TEKARI District- Gaya

SHAMBHU PRASAD YADAV @ SHAMBHU PRASAD Son of MOHAN
YADAV RESIDENT OF VILLAGE- SONBARSA, BHADEJA, POLICE
STATION- BARACHATTI, DISTRICT- GAYA

... .. Petitioner/s

Versus

1. The State of Bihar
2. MINING INSPECTOR, DISTRICT MINING OFFICE, GAYA BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manish Kumar No2, Advocate
For the Opposite Party/s:		Mr. Shyameshwar Dayal, SPL.PP
For the Mining Department:		Mr. Naresh Dixit, Advocate
		Ms. Kalpana, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT

Date : 12-07-2024

1. Heard learned counsel for the petitioner, learned
Special PP for the Department of Mines and learned APP for the
State.

2. The petitioner has filed the instant application for
the following reliefs:

*“1. That this is an application for quashing the
order dated 22.02.2023 passed by the learned
Additional Chief Judicial Magistrate VI, Gaya in
Tekari P.S. Case No. 609 of 2022, whereby and
where under the release application filed by the
petitioner for release of his vehicle bearing Reg.
No. BR-02GC-6865 has been rejected.”*



3. The case of the petitioner in brief is that the petitioner happens to be the registered owner of a tractor bearing registration no. BR-02GC-6865, Engine no. 53251MS4490 and Chasis no. MEA908AIFN2429833.

4. As per the prosecution case a raid was conducted and the tractor in question belonging to the petitioner was found loaded with sand. The driver of the vehicle managed to escape. No one produced the valid challan for the sand loaded on the tractor. As such a seizure list was prepared, the tractor was handed over to one Sunil and an FIR being Tekari P.S. Case no.609 of 2022 was registered on 25.9.2022 under sections 379 and 411 of the Code of Criminal Procedure and various other provisions of the Mining Act and Rules.

5. It is submitted by learned counsel for the petitioner that after lodging of the FIR, the Mining Department calculated the fine for violation of the provisions of the Act and the Rules of the Mining Department and the petitioner was assessed and directed to pay a total amount of Rs.36,000/-, which the petitioner deposited. On deposit of the total fine, the petitioner filed a petition for release of his vehicle which was rejected by the learned Additional Chief Judicial Magistrate 6th Gaya by his order dated 22.2.2023 passed in Tekari P.S. Case no.609 of 2022



mainly on the ground that the fine had been deposited by the petitioner after the time fixed for the said deposit. It is submitted by learned counsel for the petitioner that the vehicle in question is parked in an open place exposed to nature and is thus losing its value day to day. It is prayed that the vehicle be released in favour of the petitioner. Learned counsel for the petitioner further places reliance on the order dated 22.1.2024 passed in a similar matter in Cr.W.J.C. no.1093 of 2023.

6. Learned Special PP for the Department of Mines, though has opposed the prayer of the application but in the counter affidavit filed on behalf of the Mining Inspector, District Mining Office, Gaya, (opposite party no.2) has accepted therein that the petitioner has deposited the compounding fee and the penalty amount of the price of the minerals on 16.12.2022, but the same was done not within the time prescribed by the department.

7. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case including the contents of the order of this Court dated 22.1.2024 passed in Cr.W.J.C. no.1093 of 2023, the order dated 22.2.2023 passed in Tekari P.S. Case no.609 of 2022 by the learned Chief Judicial Magistrate 6th Gaya, impugned herein, is set aside.



8. It is further directed that the officers of the department of Mines shall release the vehicle in question on the following conditions:

I. The petitioner shall submit a proof of ownership as also the receipt of deposit of the entire fine amount.

II. The petitioner shall submit an undertaking in writing to the effect that the vehicle in question shall not be sold or transferred to any third person during pendency of Tekari P.S. case no.609 of 2022 and shall be produced by the petitioner in the said case as and when required by the Court or the department.

9. On satisfaction of the above conditions the vehicle shall be released in favour of the petitioner within a period of two weeks.

10. The application stands disposed of with the above observations and directions.

(Partha Sarthy, J)

Bibhash/-

AFR/NAFR	
CAV DATE	16.5.2024
Uploading Date	15.7.2024
Transmission Date	15.7.2024

