

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1327 of 2022

Arising Out of PS. Case No.-432 Year-2022 Thana- KOILWAR District- Bhojpur

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Ram Avatar Yadav Son of Nanhak yadav R/v- Firojpur, P.S.- Chitbaragaon,
District- Balia State- Uttar Pradesh

... .. Petitioner/s

Versus

1. The Stae of Bihar through the Principle Secretary Mines and Geology Bihar Patna Bihar
2. The Managing Director Bihar State Mining Corporation Ltd. Bihar Patna Bihar
3. The Additional Chief Secretary Cum Mines Commissioner Bihar Patna Bihar
4. The Assistant Director District Mines office Bhojpur at Ara Bihar
5. The District Magistrate Bhojpur at Ara cum Mining officer Bhojpur at Ara Bihar
6. The Superintendent of Police Bhojpur at Ara Bihar
7. The Officer-in-charge Koilwar police station District Bhojpur Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shiv Prasad Gupta, Advocate
For the State	:	Mr. Abhishek Singh, AC to GA-7
For the Department of Mines:		Ms. Kalpana, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 02-02-2024 At the outset, learned counsel for the petitioner seeks permission to delete respondent no.2 from the array of parties.

2. Permission is granted.

3. Let the name of respondent no.2 be expunged from the records.

4. The Department of Mines is represented through respondent nos.3 and 4. The respondent nos.1, 5, 6 and 7 are represented by learned GA-7 for the State.

5. Heard learned counsel for the petitioner, learned counsel for the Department of Mines and learned counsel for the State.

6. Petitioner, in this case, is seeking a direction to the appropriate authority to release the truck bearing Reg.No.CGO4JD6155, Chassis No.MAT466420C3-BO48M (12 Chakka) seized in connection with Koilwar P.S. Case No.432 of 2022 dated 06.07.2022 registered for the offences under Sections 379 and 411/34 of the Indian Penal Code, Sections 4/21 of the Mines and Minerals (Development and Regulation) Act, 1957 and Rules 39(1) and 56(1) of the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Amendment Rules, 2021.

7. Learned counsel for the petitioner submits that during the raid conducted by the Mines Inspector on 05.07.2022, allegedly huge quantity of sand were recovered and three trucks were found to be there which were being used for transportation of the sand. Learned counsel submits that so far as the case of illegal stocking of sand is concerned, the same is against the FIR named accused persons and 10-15 unknown persons. In the FIR itself, it is stated that the truck in question was not found loaded with any sand. Submission is that no

revenue loss has been caused by this truck which was in fact standing empty.

8. Learned counsel submits that it is a case of false implication of the truck in question in the present case on the allegations of being involved in illegal transportation of sand.

9. Learned counsel for the Department of Mines submits that a confiscation proceeding has already been initiated in respect of this truck by the District Magistrate, Bhojpur at Ara. It is pointed out that the petitioner has appeared before the confiscating authority. Learned counsel for the petitioner accepts the fact that he has been served with a notice showing initiation of confiscation proceeding.

10. In view of the admitted position that a confiscation proceeding has already been initiated and there is a provision under the relevant rule that the confiscating authority can pass an order for release of the vehicle during pendency of the confiscation proceeding, this Court grants liberty to the petitioner to make an appropriate application before the confiscating authority for release of the vehicle in question on such terms and conditions as may be deemed just and proper.

11. If such an application is preferred within a period of thirty days from today, the same will be considered by the

confiscating authority in accordance with the rules keeping in view the submissions of the petitioner that no sand was found loaded on the truck and further that one of the seized trucks is said to have been released by the learned C.J.M. Such order shall be passed within a period of thirty days from the date of filing of the application, failing which the petitioner will be at liberty to approach this Court.

12. If an application seeking release of the truck in question is filed, during pendency of the same the truck in question shall not be auction sold.

13. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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