

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68264 of 2023

Arising Out of PS. Case No.-390 Year-2022 Thana- NARHATT District- Nawada

SANJU DEVI Wife of Ramnandan Singh R/o vill - Dhamaul, P.S. - Hisua,
distt. - Nawada

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Department of Mines and Minerals, Gov. of Bihar, Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar, Advocate
For the State	:	Mr. Shyameshwar Dayal, A.P.P.
For the O.P. No.2	:	Mr. Naresh Dixit, Advocate
		Mr. Brij Bihari Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 12-02-2024 Heard the parties.

2. This application has been filed for quashing order dated 29.03.2023 passed by the Judicial Magistrate, 1st Class, Nawada in Narhat P. S. Case No. 390/2022 whereby the application filed on behalf of the petitioner for release of her seized tractor bearing Registration No. BR-27G/3968 along with the trailer was rejected.

3. Learned counsel for the petitioner submits that it is a settled law that the pre-trial confiscation would be prejudicial to the right of the petitioner unless the charges are proved against the petitioner; the vehicle cannot be confiscated by the authorities. He next submits that petitioner is registered owner



of the tractor bearing registration No. BR-27G/3968 having engine No. 3100FL73G65576F3 and Chasis No. EZJST662116SM and from bare perusal of the F.I.R. it is apparent that the driver as well as other persons engaged in the alleged illegal mining are said to have fled away. The tractor in question was driven by one Dhananjay Kumar who is a co-villager of the petitioner and without the proper challan/document he was transporting the sand illegally without the consent and knowledge of the petitioner. He further submits that petitioner has already deposited Rs. 30,375/- the amount of fine recoverable as per the F.I.R. and the same has been acknowledged *vide* Letter No. 3567/Kha dated 13.12.2022 issued under the signature of Mines Development Officer, Nawada.

4. Learned counsel for the opposite party No. 2 does not dispute the contention and by filing counter affidavit, in paragraph 8 he submits that the penalty amount imposed against the petitioner has been deposited to the Mines Department through OGRAS *vide* G.R.N. No. BHR20221200297455N dated 13.12.2022.

5. Considering the aforesaid submissions made on behalf of the parties and materials available on record, this court



finds that no useful purpose could be served by detaining the tractor in question.

6. Accordingly, order dated 29.03.2023 passed by the Judicial Magistrate, 1st Class, Nawada in Narhat P. S. Case No. 390/2022 is, hereby, quashed and trial court is directed to release the tractor bearing Registration No. BR-27G/3968 in favour of its owner/the petitioner within two weeks from the date of receipt of a copy of this order subject to the following conditions:

“(i) The petitioner shall furnish bank guarantee or Rs. 1,00,000/- (Rupees One Lakh) before the trial court.

(ii) The petitioner shall produce the seized vehicle before the trial court as and when called for during the trial and also during the confiscation proceeding, if any such proceeding is initiated.

(iii) The petitioner shall not alienate the seized vehicle or change its nature and character during the pendency of the case.

(iv) The seized vehicle shall not be used for the commission of any offence.

(v) The vehicle, before its release, should be



properly photographed and the photograph will be made part of the record. Engine number and chasis number of the vehicle should also be noted for future reference.”

7. The application is allowed in the aforesaid terms.

(Prabhat Kumar Singh, J)

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