

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17833 of 2023

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Anil Kumar Gupta @ Anil Sah @ Anil Sao @ Anil Kumar Son of Sri Manik Chand Gupta, permanent resident of Village Baijla, PS Sasaram Town District Rohtash at present 140 Abhiyanta Nagar Bankers Colony, P.S. Rupaspur, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Forest and Environment Bihar, Patna.
2. Divisional Forest Officer, Rohtash at Sasaram.
3. Conservator of Forest Rohtash at Sasaram Circle.
4. Ranger, Darigaon Forest Precincts Rohtash at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amardeep Lokpriya, Mr. Diwakar Prasad Singh, Advocates.
For the Respondent/s	:	Mr. Anant Prasad (SC 15)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 12-09-2024 Learned counsel for the petitioner prays for and is allowed to make necessary corrections in the name of respondent no.2 in course of the day.

2. Heard the parties.

3. The writ petition has been filed for the following reliefs:-

“1 That this writ application is being filed with a prayer to direct Provisional release the HGV Truck (Dumper) Bearing registration No. JH03C/ 1228 which was seized despite having proper documents in possession of the Driver who produced entire original documents at the time of Seizure, but the respondent authority seized the vehicle as



aforesaid & Forest Case No.54/20 was registered subsequently Confiscation Case No.73 of 2020 was registered for Confiscation of HGV Truck (Dumper) Bearing registration No. JH03C/ 1228 belong to petitioner. As such the petitioner prays for relief's specifically prayed in paragraph below:

2 That specifically and candidly the petitioner prays for following main reliefs.

(i) That for issuance of appropriate writ order or direction commanding the respondents to release the HGV Truck (Dumper) Bearing registration No. JH03C/1228 provisionally which was seized by the respondent & Confiscation Case No.73 of 2020 corresponding to Forest Case No.54/20 was registered as such direction may kindly be given to respondent to release the Truck bearing Registration No. JH03C/ 1228 on the basis of ratio laid down by Hon'ble Supreme Court of India in the case of Sri Sunderbhai Ambalal Desai Versus State of Gujrat reported in 2002 (10) SCC 283 (Para-17).

(ii) That any other relief or relief's for which the petitioner be found entitled in law be granted to them.

4. The case of the petitioner is that he is a registered owner of the vehicle no. JH03C/1228 Truck (Dumper) which was intercepted and crushed stone chips were found present in the said truck. However, as the driver escaped, in absence of any document and having realized that the stone chips are identical to the *Fajil* reserved forest area, it was seized.



5. Learned counsel for the petitioner submits that the seizure having been made on 04.07.2020 is lying idle under the sky, is bereft of any advantage and continuous exposure will make no purpose.

6. Learned State counsel submits that it is not the case of the petitioner that he has preferred any petition for the release of the vehicle and has given any undertaking for payment of fine and in that background, the writ petition is not maintainable.

7. The writ petition is of the year 2023 and, as usual, there is no counter affidavit on behalf of the State official. The Forest Confiscation Case no. 73 of 2020 is pending before the Divisional Forest Officer, Rohtas at Sasaram at per the petitioner. He has made categorical statement before the Court that the confiscation proceeding has not come to an end. In that background, it would be proper that he files an appropriate petition before the Respondent no.2 with an undertaking that:

(i) he will be paying the fine imposed for the released of the vehicle,

(ii) he will not sell/transfer it off and will produce as and when required,

(iii) he will be abiding by the final order of the



confiscation proceeding.

8. In view of the fair submission of the learned counsel for the petitioner, not opposed by the State counsel and further keeping the truck under open sky is a national loss, in that background, the writ petition stands disposed of granting liberty to the petitioner to prefer appropriate petition, if the confiscation proceeding has still not ended and/or any order not passed, as has been made to understand by the learned counsel for the petitioner.

9. It is expected that on the petition filed by the petitioner within four weeks, the appropriate order shall be passed.

(Rajiv Roy, J)

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