

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.349 of 2023

Arising Out of PS. Case No.-410 Year-2022 Thana- EKMA District- Saran

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Rambalak Ray @ Ram Balak Rai Son Of Jayram Ray @ Jai Ram Rai R/O
Balwan Tola, P.S.- Doriganj, District- Saran At Chapra

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Dy. Secretary Of The Dept Of Mines, Patna Bihar
2. The District Magistrate, Saran
3. The Superintendent Of Police, Saran
4. The Deputy Superintendent Of Police, Saran
5. The Circle Officer Cum Mines Superintendent Of Police, Saran
6. The State House Officer, Ekma, Saran
7. The District Mines Officer, Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar
For the State	:	Mr. Gyan Prakash Ojha, G.A.-7, Mr. Abhishek Singh, AC to G.A.-7
For Mining	:	Mr. Mahesh Dikshit, Adv., Ms. Kalpana, Adv.

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 07-01-2025 The petitioner has prayed for impleading the District

Mines Officer, Saran as respondent no.7.

2. Prayer is considered and allowed.

3. The District Mines Officer, Saran be impleaded as

respondent no. 7 forthwith.

4. The instant writ petition has been filed for issuance

of an appropriate writ/writs, order/orders, direction/directions to

the respondent Authorities to release the Truck bearing No. UP-



60L-8782, which has been seized in connection with Ekma P.S. Case No. 410 of 2022, dated 22nd October, 2022, under Sections 379/411/188/420/34 of the I.P.C. and Sections 4/11 of the Mines And Minerals (Development And Regulation) Act, 1957.

5. It is not in dispute that the petitioner is the owner of the truck and is engaged in the business of transportation of sand from one place to another place. It is stated that the petitioner was transporting yellow sand through his truck when it was intercepted by the Police.

6. As per the prosecution case, the Circle Officer, Ekma, lodged a complaint detaining 27 numbers of trucks, of which the petitioner's truck was one of them, was transporting yellow sand from the place of occurrence. It is also alleged by the Circle Officer that none of the truck owners could produce valid documents for transporting yellow sand, which are considered as miner mineral.

7. Extraction and transportation of miner mineral is a cognizable offence, for which the Circle Inspector submitted a complaint to the local Police Station.

8. It is submitted by the petitioner, at the time of hearing of the instant writ petition that the owner of the truck is ready to pay fine amount, if any, which may be imposed by the



concerned Mines Department.

9. Learned counsel further submits that the vehicle in question is lying under the open sky and with every passing day, it is loosing its road worthiness. More than two years have already elapsed since the date of seizure, therefore, keeping in view the principles laid down by the Hon'ble Supreme Court in the case of *Sunderbhai Ambalal Desai Vrs. State of Gujarat*, reported in (2002) 10 SCC 283 and in the case of *General Insurance Council & Others Vrs. State of Andhra Pradesh And Others*, reported in (2010) 6 SCC 768, this Court has been passing the order for release of the vehicle on such terms and conditions as may be imposed.

10. The learned Advocate on behalf of the State/Respondents has raised a preliminary objection on the ground of maintainability of the writ petition, because of the fact that an alternative remedy is available to the petitioner for release of the vehicle. Under such circumstances, the writ petition is not maintainable.

11. The petitioner has the remedy to compound the offence on payment of 25 times of royalty of minerals, loaded in the truck, and in order to pass such order the matter may be remitted to the District Mines Officer, Saran, who will consider



the request of the petitioner and pass an appropriate order, disclosing the amount, which the petitioner would be liable to be deposit.

12. Having regard to the facts and circumstances of the case, the instant writ petition is disposed of with liberty to the petitioner to file an appropriate application before the District Mines Officer, Saran within a period of two weeks from this date whereupon the District Mines Officer shall fix the amount, which the petitioner would be liable to deposit for release of the vehicle in question. This Court directs the District Mines Officer to allow the petitioner to deposit the entire amount in three installments.

13. On deposit of the amount so fixed by the District Mines Officer, the vehicle in question shall be released in favour of the petitioner after verifying the documents of ownership of the vehicle in the name of the petitioner and the release would be subject to the following conditions:-

(i) The owner of the vehicle shall furnish a bank guarantee or any other kind of valuable security to the extent of Rs.5,00,000/- (rupees five lacs) to the satisfaction of the learned court below.

(ii) The owner shall also furnish an undertaking on



oath that he shall not alienate or part with the ownership of the vehicle in question during pendency of the case and further in case any confiscation proceeding is initiated in the matter, he will cooperate with the same.

(iii) Before release of the vehicle in question a panchnama shall be prepared by the court below and the same will be kept in the record.

14. The instant criminal writ petition is accordingly disposed of.

(Bibek Chaudhuri, J)

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