

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50380 of 2024

In
Criminal Writ Jurisdiction Case No.1699 of 2023

Arising Out of PS. Case No.-302 Year-2022 Thana- CHAKIA District- East Champaran

RAMVACHAN SAHNI Son of Late Jhagru Sahni Resident of Village -
Shahnawaz Pur, P.S.- Taraiya, District - Saran

... .. Petitioner

Versus

1. The State of Bihar through the District Collector, East Champaran at Motihari. Bihar
2. The Superintendent of Police, East Champaran at Motihari. Bihar
3. The Dy. S.P. Chakia, East Champaran at Motihari. Bihar
4. The Circle Inspector of Police, Chakia, East Champaran at Motihari. Bihar
5. The Officer in Charge of Chakia Police Station, East Champaran at Motihari Bihar
6. The Investigating Officer of Chakia P.S. Case No.- 302 of 2022 East Champaran at Motihari. Bihar
7. The Mining Development Officer, East Champaran at Motihari. Bihar
8. The District Transport Officer, East Champaran at Motihari. Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr.Vijay Shankar Shrivastava, Advocate
For the Opposite Party/s :	Mr.Navin Kumar Pandey, APP
For the Deptt. of Mines :	Mr.Naresh Dikshit, Spl.PP, Mines.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 04-07-2025

Heard learned counsel for the parties.

2. The present application has been preferred under section 482 of the Code of Criminal Procedure (in short, the 'Cr.P.C.') as to quash the order dated 15.07.2023 passed by learned Additional Sessions Judge-19, East Champaran,



Motihari, in connection with Cr. Revision No. 125/2023 arising out of Chakia P.S. Case No. 302 of 2022, whereby and whereunder learned trial court has been pleased to reject the petition, which was filed by the petitioner against the order dated 30.01.2023 passed by learned J.M. - 1st Class, Motihari for release of the vehicle namely, JCB bearing Registration No. BR31G-7913, Chassis No. 001848622, Engine No. H0052587 in favour of the petitioner, as the petitioner was the owner of the aforesaid vehicle.

3. The brief facts of this case is that one Chotan Kumar (the informant) alleged that on 13-07-2022 at 11:30 hrs. in the night while he was coming to his house, he saw that illegal mining of sand on the bank of Gandhak river was going on making air dusty, due to which the informant asked the accused persons, named in the FIR, to excavate the sand properly, but all the accused persons surrounded him and one Tunna Singh, who was armed with knife, gave one blow on his head causing head injury. It is further alleged that Abhishek Singh, who was also armed with iron rod, assaulted him, whereafter accused persons taken away Rs. 10,000/- from



him and also snatched his mobile phone.

4. On the basis of aforesaid written information Chakia P.S. Case No.-302 of 2022 dated 14-07-2022 u/s 341, 323, 324, 379,34 of the IPC and section-56 of the Bihar Mining Rule, 2019 was instituted against five FIR named accused persons. Petitioner is not accused.

5. After institution of the FIR of Chakia P.S. Case No. 302 of 2022, the investigating officer started investigation and during the course of investigation, on 14-07-2022 itself, the vehicle namely, JCB bearing Registration No BR31G7913, Chasis No.- 001848622, Engine No.-H0052587 was seized, but details of the aforesaid vehicle was not mentioned in the seizure list rather other Chasis No.- 332Y17472095647 and Engine No.- H00052537 in place of aforesaid JCB vehicle was made, which belongs to this petitioner. This fact has also come in Paragraph No.- 3 of the case dairy of Chakia P.S. Case No.- 302 of 2022.

6. Learned counsel appearing on behalf of the petitioner submitted that during the course of investigation, the I.O. of Chakia P.S. Case No. 302 of 2022 made an



application with regard to verification of the owner of JCB bearing Chassis No. 332Y17472095647 and Engine No. H00052537.

7. It is submitted that the Investigating Officer received report from the Mining Development Officer East Champaran at Motihari vide letter No.- 469/M dated 06-08-2022 in which the description of vehicle namely JCB has been given as Chassis No. 332Y17472095647 and Engine No.- H00052537. The Mining development Officer East Champaran at Motihari has also imposed fine of Rs. 4,42,300/- including compounding fees against the aforesaid JCB machine bearing Chassis No.-332Y17472095647 and Engine No. H00052537, not against the JCB of the petitioner bearing Registration No. BR31G7913, Chassis No. 001848622, Engine No. H0052587.

8. Learned counsel further submitted that the Investigating Officer also call for a report from the District Transport Officer, who submitted its report with regard to the vehicle of the petitioner. Learned counsel submitted that the I.O. of this case has wrongly mentioned the Chassis number



of the seized vehicle.

9. Learned counsel submitted that since 14.07.2022, the vehicle of the petitioner is lying in open sky in the campus of the Chakia Police Station. The I.O. has neither prepared the seizure list nor releasing the aforesaid vehicle in favour of the petitioner, where Mining Development Officer, East Champaran at Motihari vide its order dated 05.08.2022, requested to keep the vehicle namely, JCB, which was seized in connection with Chakia P.S. Case No. 302/2022 in the campus of Chakia P.S. where the details of the vehicle has been given as Chassis No.-332Y17472095647 and Engine No. H00052537, which not belongs to this petitioner. It is submitted that the petitioner is the registered owner of JCB bearing Reg. No. BR31G7913, Chasis No.- 001848622, Engine No.-H0052587. It is also submitted that Mining Development Officer, Motihari has also demanded the mining fine of Rs. 4,42,300/- against the wrong vehicle, which not belongs to the petitioner.

10. Learned counsel further submitted that petitioner undertakes that as and when the learned trial court/concerned



court would direct to produce the vehicle in question, the same shall be produced before the concerned court.

11. While concluding the argument, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Sunderbhai Ambalal Desai vs. State of Gujarat** as reported in **(2002)10 SCC 283** and prayed to release the aforesaid vehicle.

12. Learned counsel appearing on behalf of the Department of Mines, Motihari, while opposing the quashing petition, submitted that during course of investigation, the description of the seized vehicle, which was wrongly mentioned, was corrected on 20.01.2023 and same was intimated to the court through concerned I.O., where the correct Engine No. was H0052587 and Chassi No. 001848622, which was wrongly mentioned as Chassis No. 332Y17472095647 and Engine No. H00052537.

13. Learned counsel further submitted that the aforesaid vehicle was found excavating the sand illegally from the bank of Gandhak river, therefore, it was seized and parked in the campus of Chakia Police Station.



14. It is submitted that after seizure of the petitioner's vehicle, Mineral Development Officer, Motihari issued a fresh letter vide memo No. 343 dated 25.03.2025, imposing a demand of fine as well as compounding fee of Rs. 4,42,300/- against the JCB of the petitioner bearing its Reg. No. BR31G7913, Chassis No.- 001848622, Engine No.- H0052587.

15. Having heard learned counsel for the parties and after perusal of the records, it appears from the report of the concerned D.T.O. as well as police report that petitioner is the registered owner of the JCB in question and since 14.07.2022, the vehicle of the petitioner is lying in open sky in the campus of the Chakia Police Station.

16. It would be apposite to reproduce para 21 of the legal report of Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai (supra)**, which reads as under:

“**21.** However, these powers are to be exercised by the Magistrate concerned. We hope and trust that the Magistrate concerned would take immediate action for seeing that powers under Section 451 CrPC are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by



the Registry of the High Court concerned in seeing that the rules framed by the High Court with regard to such articles are implemented properly.”

17. Accordingly, the impugned order dated 15.07.2023 passed by learned Additional Sessions Judge-19, East Champaran, Motihari, in connection with Cr. Revision No. 125/2023 arising out of Chakia P.S. Case No. 302 of 2022 *qua* petitioner is hereby quashed/aside.

18. The present application stands allowed with directions to the learned trial court to release the Vehicle in question against such sureties and conditions, satisfying the learned trial court/ concerned court to petitioner/rightful owner. Further, the petitioner shall not sell or part with the ownership of the Vehicle till conclusion of the trial and shall furnish an undertaking to the trial court that he shall surrender the aforesaid vehicle within one week of being so directed and/or pay the value of the Vehicle (determined according to Income Tax law on the date of its release), if so ultimately directed by the Court.

19. The petitioner is directed to pay only 42,300/- as fine to the Mining Department for the present, and receipt of



same be produced before the court concerned.

20. Mining Development Officer/respondent no. 7 is directed to accept fine of Rs. 42,300/- provisionally for the present and to issue receipt of said effect immediately.

21. Let a copy of this order be sent to learned trial court/concerned court forthwith.

(Chandra Shekhar Jha, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.07.2025
Transmission Date	08.07.2025

