

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63017 of 2024

Arising Out of PS. Case No.-136 Year-2024 Thana- HULASGANJ District- Jehanabad

Lalan Kumar Son of Shree Ram Singh Resident of Village - Kandaul, Police
Station - Hulasganj, District - Jehanabad

... .. Petitioner

Versus

1. The State of Bihar
2. Mithilesh Kumar Son of Rajbalav Prasad Sah Resident of Village - Human
Nagar, Police Station - Saur Bazar, District - Saharsa at present The District
Mines Officer, Jehanabad
3. D.T.O. Jehanabad

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar, Advocate
		Mr.Jay Prakash Singh, Advocate
For the Opposite Party/s :		Mr.Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 20-02-2025

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

2. The present quashing petition has been filed on behalf of the petitioner for quashing the order dated 25.07.2024 passed by learned I/C Chief Judicial Magistrate, Jehanabad in connection with Hulasganj P.S. Case Nno. 136 of 2024 registered for the offences under sections 379 and 411 of the I.P.C. and section 11, 43, 56, 4, 21 of Bihar Minerals (Concession, Prevention of Illegal Mining, Transportations & Storage) Rules, 2019 (hereinafter referred to as the “Rules of 2019”).



3. The brief facts of the case is that one Mithilesh Kumar, Mines Inspector, District Mines Office, Jehanabad submitted a written complaint before S.H.O. Hulasganj Police Station, Jehanabad alleging therein that he received a telephonic message from S.H.O. Hulasganj, in which one Sub-Inspector had intercepted a Tractor with sand, registration number was not mentioned on the vehicle, and while seeing the police personnel the driver fled away leaving the tractor. Consequently, the said tractor was brought to the police station. It is further alleged that on such information, the informant visited the police station and conducted an inspection of the vehicle, wherein he found that registration number was not mentioned in the vehicle, however, the informant disclosed the Chassis No. 006505439C1, SL. No. RBDL 00196 KA, Mahindra Model 265 DI and found that said tractor was loaded with sand. Thereafter, the informant imposed a sum of Rs. 35,650/- as fine. The informant further requested the police personnel to instituted a criminal case under the provisions of Indian Penal Code as well as Bihar Minerals (Concession, Prevention of Illegal Mining, Transportations & Storage) Rules, 2019.

4. On the basis of aforesaid written complaint, a formal



F.I.R. bearing Hulasganj P.S. Case No. 136/2024 dated 25.05.2024 was registered for the offence under the aforesaid provisions of the I.P.C. as well as Rules of 2019.

5. Learned counsel appearing on behalf of the petitioner submitted that petitioner falsely implicated in this case. It is submitted that petitioner is the owner of the said tractor, which was used for the agricultural purpose.

6. It is submitted that petitioner was deposited a sum of Rs. 35,650/- as fine, which petitioner has deposited in the District Mining Office, Jehanabad, thereafter District Mining Officer vide letter no. 572 dated 03.07.2024 addressed the learned Chief Judicial Magistrate, Jehanabad, in which the concerned officer has apprised the court that aforesaid fine has been deposited by the petitioner with undertaking that he has no objection, if the tractor is released. It is submitted that petitioner submitted a petition before the CJM, Jehanabad for release of the vehicle, but the learned trial court directed the petitioner to deposit Rs. 63,000/- as fine/tax before the District Transport Officer, Jehanabad and due to non-deposit of the aforesaid amount, the application of the petitioner for release of the tractor has been rejected vide impugned order dated



25.07.2024.

7. Learned counsel further submitted that so far as payment under the Motor Vehicle Act is concerned, the same is not permissible to be raised in the present case, because the tractor was intercepted by the Mines Department and a fine of Rs. 35,650/- was imposed, which was deposited by the petitioner, but the amount of Rs. 63,000/- was raised as a fine for the different offences under Motor Vehicle Act, admittedly, when vehicle was with police. It is submitted that in such circumstances, fine of Rs. 63,000/- was imposed illegally.

8. In this context, 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**.

9. Learned A.P.P. for the State, while opposing the quashing petition, submitted that from the report, which was submitted by police, it has been stated that petitioner is the owner of the Tractor bearing Reg. No. BR25A-7529 and the same has been kept in the premises of Hulasganj Police Station. It is submitted that petitioner has not produced any relevant paper regarding summoning amount of Rs. 63,000/- payable



under the provisions of Motor Vehicles Act, 1988.

10. A counter affidavit has been filed on behalf of opposite party no. 3/District Transport Officer, Jehanabad, wherein it has been stated that the seized vehicle was utilizing for the purpose of transporting sand and deposit of fine of Rs. 35650/- pertains to a penalty under the Bihar Minerals Rules. It is submitted that fine of Rs. 63,000/- was imposed as a statutory obligation not as an arbitrary act as the petitioner has not submitted the required documents.

11. It is apparent that Tractor in issue was seized by Hulasganj Police where the informant was one Mithilesh Kumar, Mines Inspector, District Mines Office, Jehanabad. The vehicle in issue was seized and was kept in police station premises and thereafter it was informed to District Transport Officer to check the required documents. This is not a case when vehicle was plying on the road and was seized by traffic police or DTO in violation of the provisions of Motor Vehicle Act. When the vehicle in issue was in custody with police and was found kept admittedly in the premises of police station, the action of Transport Officer appears unwarranted. Therefore, the fine of Rs. 63,000/- imposed by the D.T.O. Jehanabad appears illegal



and same stands quashed/set-aside.

12. Accordingly, the impugned order dated 25.07.2024 passed by learned Chief Judicial Magistrate, Jehanabad in connection with Hulasganj P.S. Case No. 136 of 2024 *qua* petitioner is hereby quashed/aside.

13. Learned trial court/concerned court is directed to release the vehicle in issue of the petitioner forthwith, if not required in any other case, against such sureties and with condition as it deems find fit and proper to its satisfaction.

14. This application stands allowed.

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.02.2025
Transmission Date	21.02.2025

