

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2441 of 2024

Arising Out of PS. Case No.-770 Year-2024 Thana- SONEPUR District- Saran

Prabhat Kumar Son of Late Jay Mangal Prasad Yadav Resident of Village-
Parsadi, P.S.- Parsa, District- Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the Dy. Secretary of the Dept. of Mines, Patna Bihar
2. The District Magistrate, Saran Bihar
3. The Superintendent of Police, Saran Bihar
4. The Deputy Superintendent of Police, Saran Bihar
5. The Director and Mines Superintendent, Saran Bihar
6. The State House Officer, Sonapur, Saran Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar
For the Respondent/s : Mr. S.C. 07

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 02-04-2025 The petitioner’s vehicle while carrying sand was intercepted by the Mines Development Officer/Mines inspector, Saran at Chapra and on the basis of a complaint lodged by him, Sonpur P.S. Case No. 770 of 2024 dated 19th September 2024 under Section 223/303(2)/317(2) of the BNS was registered. The Mines Inspector also seized a truck bearing registration no. BR01 GG-9471, on the allegation that the sand in the said truck was extracted from Sabalpur Sand Ghat, however, the GPS Challan shown that permission to extract sand and loading of the sand on the truck in question was directed to be made from



different sand ghats. It is the case of the defence story regarding extraction of sand from Sabalpur Sand Ghat, came to be known from the driver of the offending vehicle.

2. It appears from the writ petition itself that a case was registered under different penal provision of BNS and not under the Mines and Minerals (Development and Regulation) Act, 1957, or any other Rule framed under the said Act. The Mines Department is entrusted in initiating confiscation proceeding against the owner of the said truck. However, when no case is instituted under the Mines and Minerals (Development and Regulation) Act, 1957 or Rules thereunder, any confiscation proceeding under the said act *prima facie* is not permissible.

3. Be that as it may, the instant writ petition has been filed upon the police authority to release the said truck. Section 497 of the BNS read with section 503 of the BNS provide the procedure for disposal of the property pending trial. It is open for the learned jurisdictional magistrate to pass appropriate orders for proper custody of any property including the vehicle. In *Sunderbhai Ambalal Desai & Ors. v. State of Gujarat* reported in *2002(10) SCC 283*. It is clearly stated that the investigating agency cannot reduce or diminish roadworthiness



of a seized vehicle keeping it under open sky for a considerable period of time, this will cause mechanical defect of the vehicle and in some cases, it cannot even be run.

4. In view of such circumstances, this Court is of the view that the vehicle ought to have been handed over to the petitioner. Therefore, in compliance of the provision contained in Section 503 of the BNS, the learned Magistrate is directed to dispose of the seized truck imposing proper condition and execution of a bond amount of which shall be fixed by the learned Magistrate to release the said vehicle in favour of the registered owner of the same. Such order shall be passed within 15 days from the date of communication of this order.

5. The instant writ petition is thus, disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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