

(2023) 11 JH CK 0025

In the Jharkhand High Court

Case No : Writ Petition (Criminal) No. 718 Of 2023

Nand Kishor Sharma

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 08-11-2023

Acts Referred:

Jharkhand Minor Mineral Concession Rules, 2004 — Rule 4, 54, 54(5)
Jharkhand Minerals (Prevention Of Illegal Mining, Transport And Storage) Rules, 2017
— Rule 9, 13
Mines And Minerals (Development And Regulation) Act, 1957 — Section 4, 21, 21(4A)

Citation : (2023) 11 JH CK 0025

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Rishav Kumar, Vandana Singh

Final Decision : Allowed/Disposed Of

Judgement

Sanjay Kumar Dwivedi, J

1. Heard Mr. Rishav Kumar, learned counsel for the petitioner and Mrs. Vandana Singh, learned counsel for the State.

2. This petition has been filed for quashing of the order dated 31.07.2023 passed by the learned Judicial Magistrate, 1st Class, Dumka in connection with Jama P.S. Case No.101 of 2022, whereby, the petition filed by the petitioner for release of his vehicle bearing registration No. JH-04X-1753 has been rejected.

3. The FIR was registered on a written information of the District Mining Officer, Dumka to the Officer-In-Charge, Jama Police Station alleging therein that on 04.12.2022 at about 06:00 p.m., a truck bearing registration No. JH-04X-1753 was intercepted at Jama Police Gate by the Circle Officer, Jama. The driver of the vehicle did not produce any document for the loaded stone chips and thus the vehicle was seized. The vehicle was inspected by the informant and it was found that 500 cft. of stone chips was loaded in the vehicle for which new document/

challan was either produced by the driver or owner of the vehicle.

4. Mr. Rishav Kumar, learned counsel for the petitioner submits that the petitioner is the registered owner of the seized commercial vehicle bearing registration No. JH-04X-1753. To buttress this argument, he refers Annexure-2 of the petition, which is the Registration Certificate of the vehicle in question. He further submits that the learned Court has not taken cognizance as yet. He submits that the case has been registered under Sections 414 and 34 of the Indian Penal Code, Section 4/21 of the Mines and Minerals (Development and Regulation) Act, 1957, Rule 4/54 of the Jharkhand Minor Mineral Concession Rules, 2004 and Rule 9/13 of the Jharkhand Minerals (Prevention of Illegal Mining, Transport and Storage) Rules, 2017. He submits that Confiscation Case No.01/2023-24 has been initiated and the same is pending before the Deputy Commissioner, Dumka. He also submits that considering the Sections and Rules of the Indian Penal Code, Mines and Minerals (Development and Regulation) Act, 1957, Jharkhand Minor Mineral Concession Rules, 2004 and Jharkhand Minerals (Prevention of Illegal Mining, Transport and Storage) Rules, 2017, this Court has allowed the petition for releasing of the vehicle in the case of Anju Devi Mishra @ Anju Devi v. The State of Jharkhand in W.P. (Cr.) No.502 of 2023, vide order dated 13.09.2023. He submits that the case of the petitioner is fully covered in light of the said judgment of this Court.

5. Mrs. Vandana Singh, learned counsel for the respondent-State submits that it appears that the petitioner has not produced correct challan of the chips in question and that has been recorded by the learned Court.

6. In view of the above submissions of the learned counsel for the parties, it appears that commercial vehicle of the petitioner has been seized and the same is lying in open.

7. Section 21(4-A) of the Mines and Minerals (Development and Regulation) Act, 1957 speaks that the vehicle can be confiscated by an order of the court competent to take cognizance. Further, Section 22 of the said Act stipulates about the cognizance on the complaint and in view of that, if the case is arising under the Mines Act, only complaint can be filed. Considering all these aspects, the vehicle of the petitioner in W.P.(Cr.) No.502 of 2023 was directed to be released on certain conditions. The case of the petitioner is covered by the said judgment.

8. Accordingly, the order dated 31.07.2023 passed by the learned Judicial Magistrate, 1st Class, Dumka in connection with Jama P.S. Case No.101 of 2022 is set aside.

9. Rule 54(5) of the Jharkhand Minor Mineral Concession Rules, 2004 stipulates that the minerals can be released on payment of double amount of the cost of the minerals, to be deposited before the competent authority. However in the case in hand, the petitioner is not claiming the seized minerals.

10. So far as the release of the vehicle is concerned, the same shall be released in favour of the petitioner on his undertaking on the following terms and conditions:-

(i) The petitioner shall furnish indemnity bond to the satisfaction of the learned Court.

(ii) One of the surety must be a resident and owner of a commercial vehicle of District- Dumka (Jharkhand).

(iii) The petitioner shall not sale, mortgage or transfer the ownership of the vehicle on hire purchase agreement or mortgage or in any manner.

(iv) He shall not change or tamper with the identification of the vehicle in any manner.

(v) He shall produce the vehicle as and when directed by the learned Trial Court.

11. The aforesaid conditions are subject to the final result of the criminal proceeding, which is pending before the learned Judicial Magistrate, 1st Class, Dumka in connection with Jama P.S. Case No.101 of 2022.

12. Accordingly, this petition is allowed in above terms and disposed of.