

(2023) 11 JH CK 0022

Jharkhand High Court

Case No: Writ Petition (Criminal) No. 955 Of 2023

Krishna Gope

APPELLANT

Vs

State Of Jharkhand
And Others

RESPONDENT

Date of Decision: Nov. 8, 2023

Acts Referred:

- Jharkhand Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2017 - Rule 11
- Jharkhand Minor Mineral Concession (Amendment) Rules, 2017 - Rule 54(5)
- Mines And Minerals (Development And Regulation) Act, 1957 - Section 21(4A), 22

Hon'ble Judges: Sanjay Kumar Dwivedi, J

Bench: Single Bench

Advocate: Saurabh Shekhar, Deepankar Roy

Final Decision: Allowed

Judgement

Sanjay Kumar Dwivedi, J

1. This petition has been filed for setting aside the order dated 10.10.2023 passed in M.C.A. No.3256 of 2023 arising out of Ratu P.S.Case No.266 of

2022, pending in the court of learned Judicial Magistrate- XXIV, Ranchi whereby Hywa bearing registration No.JH01BG-1114 was not released in

connection with Confiscation Case No.29 of 2023, pending before the Deputy Commissioner, Ranchi.

2. Mr. Saurabh Shekhar, the learned counsel appearing for the petitioner submits that the petitioner is registered owner of the said Hywa bearing

registration No.JH01BG- 1114. He submits that only on the ground that the confiscation case is initiated, the said vehicle has not been released by the

learned court. He submits that the vehicle is lying in open and deterioration of the vehicle was considered by the Honâ€™ble Supreme Court in the case of Sunder Bhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283. He further submits that the case of the petitioner is covered in light of the judgment rendered in the case of W.P.(Cr.) No.502 of 2023 decided by the order dated 13.09.2023. On this ground, he submits that the vehicle may kindly be directed to be released on the appropriate terms.

3. Mr. Deepankar Roy, the learned counsel appearing on behalf of the respondent State submits that the competent authority has seized the vehicle under Rule 11 of Jharkhand Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2017. He submits that there are provision under the said rules of appeal and revision and the petitioner is having alternative remedy.

4. It appears, in view of the above submission of the learned counsel for the parties, that it was considered by this Court in W.P.(Cr.) No.502 of 2023 and considering all the aspects, the vehicle involved in that case has been directed to be released. The case of the petitioner is covered by the said judgment of this Court. It appears that in the light of subsection 4A of section 21, the court is having power of taking cognizance is only competent to direct to confiscate the vehicle. Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR) speaks of filing of the complaint. Rule 54(5) of Jharkhand Minor Mineral Concession (Amendment) Rules, 2017 stipulates that minerals can be released on payment of double of the amount to the cost of the minerals to be deposited before the competent authority. However, in the case in hand, the petitioner is not claiming seized minerals.

5. In view of the above and considering the case of the petitioner is covered in view of the judgment rendered in W.P.(Cr.) No.502 of 2023, the impugned order dated 10.10.2023 passed in M.C.A. No.3256 of 2023 arising out of Ratu P.S.Case No.266 of 2022, pending in the court of learned Judicial Magistrate- XXIV, Ranchi whereby Hywa bearing registration No.JH01BG-1114 was not released in connection with Confiscation Case No.29 of 2023, pending before the Deputy Commissioner, Ranchi is set aside.

6. So far 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 Ranchi (Jharkhand);

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

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

(v) He shall produce the vehicle as and when directed by the learned trial court.

7. The aforesaid conditions are the subject to the final result of the criminal proceeding, which is pending before the learned Judicial Magistrate-

XXIV, Ranchi in connection with Ratu P.S.Case No.266 of 2022.

8. Accordingly, W.P.(Cr.) No.955 of 2023 is allowed in the above terms and stands disposed of.