



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Criminal Misc(Pet.) No. 6102/2022

Sanjib @ Sanjiv S/o Shri Dhan Singh, Aged About 42 Years, R/o  
Mahuya Kheda Ps Sultanpur Dist. Raysen U.p.

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Department Of Mines And Geology Rajasthan, Distt.  
Udaipur Raj.

-----Respondents

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For Petitioner(s) : Mr. N.K.Gurjar  
For Respondent(s) : Mr. Sumer Singh

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**HON'BLE MR. JUSTICE ARUN MONGA**

**Order**

**01/08/2024**

1. Under challenge herein is an order dated 17.05.2022 passed by learned Sessions Judge, Bhilwara, in Revision Petition No.95/2022, dismissing the revision petition, which was filed by the petitioner to assail another order dated 23.02.2022 passed by learned Judicial Magistrate, Bijoyla, District Bhilwara, pertaining to FIR No.16/2022, dated 04.01.2022 under Sections 379 IPC and 4/21 of MMDR Act, 1957.

2. Vide impugned orders, the release of the vehicles in question (Tractors); 1<sup>st</sup> Tractor bearing Engine No.CJ1354/MLO14422, Chesis No.MBNAK48AACMTM52036/21 and 2<sup>nd</sup> Tractor bearing Engine No.CJ1354/MLO14024 and Chesis No. MBNAK4AACMT52038/21 has been allowed upon furnishing bank guarantee to the tune of the fine/compounding amount imposed by the Mines/NGT Department.



3. Vehicle was impounded on 04.01.2022 and ever-since parked in police custody and needless to say it is deteriorating by each passing day and would turn into a complete junk if it continues to be in current condition.

4. Reference may be had to a judgment of this Court, titled **Narayan Gadri Vs. State of Rajasthan: S.B. Criminal Misc. Petition No.6304/2021, dated 02.07.2024**, which incidentally was rendered by me. Relevant thereof, being apposite, is reproduced hereinabove:-

“7. At the very outset, before proceeding further, it would be worthwhile to refer to a judgment rendered by the coordinate Bench of this Court in somewhat similar circumstances in case title **Kishore Singh Vs. State of Rajasthan : (2021) 0 Supreme (Raj.) 139** speaking for this Court, my learned Brother Dr. Pushendra Singh Bhati, J. opined thus:-

“25. This Court, on a careful examination of the precedent laws in an intricate manner, finds that the precedent laws of **Sunderbhai Ambalal Desai & Ors. Vs. State of Gujarat (supra)** and **Adhikshak Rashtriya Chambal Abhyaran Vs. Narottam Singh (supra)**, as laid down by the Hon’ble Supreme Court, shall govern the field, and thus, the vehicles seized under the mining law and the forest law, shall be released, upon charging the compensation/compounding fee or without charging the compensation/compounding fee, only and only, if the confiscation proceedings in regard thereto have not been initiated by the State authorities. It is to be noted that both mining and the forest laws have the provisions for confiscation proceedings.

26. It is also observed that until the confiscation proceedings are initiated, the Magistrate concerned shall have the power to release the vehicle(s) with or without condition of deposition of compensation/compounding fee, but the Magistrate concerned shall be required to impose a condition of furnishing of a bank guarantee, so as to secure the compensation/compounding fee, if required to be levied in future, after completion of the proceedings.

27. It is made clear that once the confiscation proceedings are initiated, the possession, delivery, disposal or distribution of the property cannot be made, in view of the law laid down in **Adhikshak**



**Rashtriya Chambal Abhyaran Vs. Narottam Singh (supra).**

28. Thus, while parting with the present controversy, it is directed that all the police stations shall release the vehicles in question, may it be tractor, trolley, truck, dumper to the registered owners of the said vehicles, after confirming from the respective Department that there is no confiscation proceeding, under the mining or forest laws, going on in regard to the vehicles in question.

29. To ensure that after undergoing the proceedings, the concerned parties i.e. registered owners of the vehicles in question shall be paying the requisite compensation/compounding fee, it is directed that the active bank guarantee, equivalent to the compensation/compounding fee, shall be deposited by the registered owners before the trial court before release of the vehicles in question.

30. It is also directed that after such bank guarantee equivalent to the compensation/compounding fee is deposited before the trial court concerned, to which the concerned police station is attached, the trial court concerned shall be required to keep such bank guarantees intact, until the final conclusion of the proceedings; and until the final conclusion of such proceedings is done by the competent courts, the bank guarantee shall remain subject to it and the orders passed at the end of the proceedings by the concerned trial court shall govern disposal of the bank guarantee.

31. It is further made clear that the petitioners shall be required to furnish photographs of their respective vehicles, showing their numbers, colours etc. Furthermore, at the time of release of the vehicles in question, the petitioners shall give an undertaking before the concerned learned trial court alongwith bank guarantee, as directed, that they shall not use such vehicles for any illegal and unlawful purpose, and in case any second offence, by means of the vehicles, is made out, then the same shall not be released, on any condition, until the confiscation proceedings come to an end.” (emphasis supplied)

8. XXXXXX

9. XXXXXX

10. From the record of the case file herein, it is not clear if in the present case confiscation proceedings have been initiated under Rule 54(6) of the Rajasthan Minor Mineral Concession Rules, 2017. In the premise, guided by the aforesaid two judgments rendered by Single Bench and Division Bench of this Court and, taking a harmonious view thereof, the petition in hand is disposed of with a direction to the respondents to verify if the confiscation proceedings have



*indeed been initiated qua the offending vehicle and if the answer is in affirmative, convey the status thereof in writing to the petitioner.*

*11. In case, the confiscation proceedings have been initiated, the vehicle shall then be released only on payment of penalty and compounding fee, in terms of ratio rendered in Kishore Singh. However, if it is found that no confiscation proceedings have yet commenced and it is merely an appeal is pendency against the penalty/compounding order passed by mining officer, liberty in that case is granted to the petitioner to approach the competent Court by filing a fresh application for release of vehicle on Superdari. Upon doing so, the same shall be released on furnishing a bank guarantee of an amount equivalent to the current value of impounded vehicle. Current value shall be as per the satisfaction of the learned competent Court dealing with the fresh application, if and when filed. Other conditions shall also be imposed by the learned Court as per Single Bench Judgment rendered in Kishore Singh.”*

5. In view of the aforequoted, the present petition is also disposed in same terms. In case the confiscation proceedings have been initiated, the vehicle shall then be released only on payment of penalty and compounding fee. However, if it is found that no confiscation proceedings have yet commenced and it is merely an appeal is pending against the penalty/compounding order passed by mining officer, liberty in that case is granted to the petitioner to approach the competent Court by filing a fresh application for release of vehicle on *Superdari*. Upon doing so, the same shall be released on furnishing a bond of an amount equivalent to the current value of impounded vehicle. Current value shall be as per the satisfaction of the learned competent Court dealing with the fresh application, if and when filed. Other conditions shall also be imposed by the learned court below as per judgment, *ibid*.

**(ARUN MONGA),J**

104-skm/-

