

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.300 of 2025**

Arising Out of PS. Case No.-127 Year-2024 Thana- Jagdishpur District- West Champaran

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Manoj Ray @ Manoj Kumar Ray, S/o Kamata Ray, R/o Village- Khawaspur  
Kala, Bhairapur Nizamat, P.S.- Saran Kotwali, District- Saran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna, Bihar. Bihar
2. The Additional Chief Secretary-cum-Mines Commissioner, Patna Bihar Bihar
3. The District Mining Officer, Bettiah, District- West Champaran, Bihar, Bihar
4. The Station House Officer, Jagdishpur Police Station, Bettiah, District-West Champaran, Bihar. Bihar

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Ms. Chhaya Kirti, Advocate  
For the State : Mr. Kameshwar Kumar, GP-17  
For the Deptt. of Mines : Mr. Utsav Anand, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**CAV JUDGMENT**

**Date : 20-02-2026**

The petitioner has filed the present writ petition seeking following reliefs :

*“(i) To issue an appropriate writ in the nature of mandamus or any other writ(s), order(s), direction(s) for issuance of direction to the respondent authorities to release the Vehicle i.e. a Diesel TATA Truck (Goods Carrier) bearing registration number as UP51AT0925 and the Chassis No.- MAT466388F5J12443 in favour of petitioner, which is seized by Respondent no.-4.*

*(ii) To issue an appropriate writ in the nature of mandamus or any other writ(s), order(s),*



*direction(s) to the concerned respondent to cancel/quash the proceedings in Jagdishpur P.S. Case No.-127/2024 dated 20.11.2024 lodged under Sections 303 (2) of The Bharatiya Nyaya Sanhita, Section 27 of MMDR Act and Section 56(2) of The Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, initiated against the petitioner seizing the vehicle bearing registration number as UP51AT0925 and the Chassis No.-MAT466388F5J12443 as per Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Amendment Rules, 2021.*

*(iii) To issue an appropriate writ in the nature of mandamus or any other writ(s), order(s), direction(s) for issuance of direction to the concerned respondents to examine in what circumstances the F.I.R. has been lodged as Jagdishpur P.S. Case No.-127/2024 dated 20.11.2024 lodged under Sections 303 (2) of The Bharatiya Nyaya Sanhita, Section 27 of MMDR Act and Section 56(2) of The Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules.*

*(iv) To issue an appropriate writ in the nature of mandamus or any other writ(s), order(s), direction(s) for issuance of direction to the concerned respondents to examine in what circumstances the Diesel*



*TATA Truck (Goods Carrier) bearing registration number as registration number as UP51AT0925 and the Chassis No.- MAT466388F5J12443 of the petitioner has been seized.*

*(iii) Any other relief(s) for which the petitioner is found entitled to”.*

2. Briefly stated, the facts, giving rise to the present writ petition, are that the petitioner is stated to be the owner of a Diesel TATA Truck (Goods Carrier) bearing Registration No. UP-51AT-0925, Chassis No. MAT466388F5J12443. The petitioner is engaged in transportation business. The petitioner claims that he possessed a prepaid pass/*challan* issued by the Government of Bihar, explicitly authorizing the transportation of yellow sand within the specified time framed from 01.11.2024 at 06:38:21 P.M till 02.11.2024 at 06:38:21 P.M.

3. Further case of the petitioner is that while the driver of the petitioner had been lawfully carrying out his duty of transporting yellow sand well within permitted limit, mining official stopped him on 02.11.2024 and proceeded to seize the vehicle. Subsequently, after a delay of eighteen days, Jagdishpur P.S. Case No. 127/2024 dated 20.11.2024 for the offences punishable under Sections 303 (2) of The Bharatiya Nyaya Sanhita, Section 27 of Mines and Minerals (Development and



Regulation) Act, 1957 (hereinafter referred to as 'MMDR Act') and Section 56 (2) of Bihar Mineral (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019 (hereinafter referred to '2019 Rules'), has been lodged against the owner of the vehicle and its driver.

4. From the FIR, it appears the vehicle was seized due to overloading. The petitioner has approached this Court for quashing of Jagdishpur P.S. Case No. 127/2024 and for release of his vehicle, in question as well as other consequential reliefs.

5. The learned counsel for the petitioner submitted that the respondent no. 4 has arbitrarily seized the vehicle of the petitioner, who is the *bonafide* owner of the vehicle in question and is engaged in business of transportation. For carrying sand on the said vehicle, the petitioner has got a valid *challan* and the driver was carrying the same. The validity period commenced at 06:38:21 P.M. on 01.11.2024 and it would have continued till 06:38:21 P.M. on 02.11.2024. Therefore, no offence as mentioned in the FIR is made out against the petitioner or his driver. The whole case of the prosecution is based on the presumption that the vehicle of the petitioner was overloaded and had been carrying sand for more capacity than the *challan* issued for the transportation. Even the seizure memo was



prepared without following the procedure and without weighing the sand. No independent witness was joined during the seizure, which is a procedural requirement mandated by law. The authority further failed to provide the copy of the seizure memo to the co-accused driver of the vehicle and, therefore, it casts serious doubt on the credibility and authenticity of the seizure memo.

6. The learned counsel further submits that there is no details about the manner in which the process of weighing of the seized vehicle has been conducted by the respondent no.3 and the result of such weighing which showed the vehicle being overloaded leading to its seizure. The learned counsel further submitted that before seizing the vehicle, concerned respondents have failed to conduct any weighing of the yellow sand carried by the truck and this oversight is particularly significant considering that the vehicle possessed a valid *challan* issued by the Government of Bihar explicitly for transportation of yellow sand.

7. The learned counsel further submitted that the truck of the petitioner was seized on 02.11.2024 and was kept under custody in questionable manner and after an unexplained delay of more than 18 days, the F.I.R. bearing Jagdishpur P.S. Case



No. 127/2024 was lodged and till date the seized truck is lying in the premises of Jagdishpur Police Station without proper shedding and the vehicle is deteriorating with each passing day.

8. On the other hand, learned counsel appearing on behalf of Department of Mines vehemently contended that there is no occasion to quash the FIR and the vehicle of the petitioner has been rightly seized. The learned counsel further submitted that on 02.11.2024, at around 9:30 P.M., during inspection/checking of vehicles loaded with illegal minerals near Jagdishpur Chowk by the officials of Mines Department, the petitioner's vehicle (12 wheel truck) bearing Registration No. UP-51AT-0925 was intercepted and on demand of *challan*, a *challan* issued on 01.11.2024 at 6:38 P.M. which was valid till 02.11.2024 at 6:38 P.M. was provided. On perusal of *challan*, it transpired that transportation of sand having quantity equal to 17.83 metric ton/445.75 CFT was permitted. However, on physical inspection, it was found that the petitioner's vehicle was overloaded and, therefore, after intercepting the petitioner's vehicle, it was brought to the nearest weighbridge and the vehicle was measured. On measurement, the gross weight of the vehicle was found to be 35020 Kg. According to the registration certificate of the vehicle, unladen weight of the vehicle was



11250 Kg. Since the petitioner was permitted to transport sand for a weight of 17.83 MT (17830 kg), deducting the weight from the gross weight of the vehicle, the same would come to 35020-(17830 +11250)=5940 kg. So the vehicle of the petitioner was overloaded with 5940 kg sand. Accordingly, a weighment slip was duly handed over to the driver namely Ajit Singh, who made his signature over the slip.

9. The learned counsel further submitted that after seizure and finding that the vehicle was overloaded, the seized vehicle was handed over to the respondent no. 4 for safe custody with a letter bearing letter no. Camp-01 dated 02.11.2024 (part of the F.I.R.) wherein it has been mentioned that the vehicle of the petitioner was seized due to the overload and transportation of sand and the key of the vehicle was kept in the police station.

10. The learned counsel then submitted that as per provision of Rule 56 of 2019 Rules, the power has been granted to the competent authority to compound the offences and the Mineral Development Officer being the competent authority has been vested with power to compound the offences within the period of 30 days and thereafter, a recommendation would be sent to the Collector of the district for initiation of confiscation proceeding.



11. The learned counsel further submitted that having such power of compounding being vested with the competent authority and having seized the vehicle on 02.11.2024, the authority waited for some days so that the owner of the vehicle may approach the respondent office for depositing the compounding fee/penalty amount, amounting to Rs. 8,15,930/- and when the said amount was not deposited by the petitioner, therefore, having no option left, the Mines Inspector, Bettiah submitted a written statement before the SHO, Jagdishpur contained in letter no. Camp-01 dated 02.11.2024 to lodge the F.I.R. against the driver and owner of the vehicle under the relevant section of BNS and other mining laws and hence, the F.I.R. bearing Jagdishpur P.S. Case No. 127 of 2024 dated 20.11.2024 was registered.

12. The learned counsel then submitted that the petitioner has wrongly mentioned that no procedural requirement mandated by law has been performed during the seizure of vehicle as once the vehicle in question was found to be overloaded on physical verification, it was taken to the nearest weighbridge for the weighment and on perusal of the receipt of such weighment, it is apparent that the driver has signed the same, therefore, the seizure, weighment and handling



over the vehicle to the Jagdishpur police station was done in presence of the driver of the vehicle.

13. The learned counsel further submitted that interception and seizure of the vehicle of the petitioner, the assessment of the sand loaded on the vehicle was proper and valid and considering the facts and circumstances, the FIR cannot be quashed.

14. I have given my thoughtful consideration to the rival submission of the parties.

15. The challenge to the action of the respondent no.3 is on the ground that the vehicle of the petitioner was not overloaded and transportation was being done under a valid *challan*. Another ground taken for quashing the FIR is delay of 18 days in lodging the FIR.

16. Admittedly, the vehicle of the petitioner has been plying and transporting sand under a valid *challan* since this fact has not been disputed by the respondent-Mining Department. However, the seizure has been made under Rule 56(1) of '2019 Rules' and penalty has been provided under Section 56(2) of '2019 Rules'. It has also been submitted on behalf of Department of Mines that the truck was weighed on a weighbridge and it was found to be carrying sand in excess of



about 6 MT. This weighing is in consonance with Rule 60(2) of '2019 Rules'. Therefore, the contention of the petitioner about there being no overloading and process of re-weighing not being followed is not sustainable.

17. So far as delay in lodging the FIR is concerned, the same has been explained by the respondent no.3 by submitting that since the offence was compoundable before the mining authorities, they waited for the petitioner to turn up to get the case compounded and finding no response from the petitioner, the present FIR was lodged. Even otherwise, the delay in lodging the FIR could not be a ground for quashing the FIR.

18. So far as claim of the petitioner about procedure not being followed rendering the whole process illegal is concerned, it is settled law that non-adherence to other procedural safeguard *ipso facto* would not have rendered the FIR liable to be quashed. However, these issues could be taken up before the learned trial court to the advantage of the petitioner.

19. Therefore, in the light of aforesaid facts and circumstances and discussion made here-in-before, I am of the opinion that the petitioner has not been able to make out a case for quashment of the Jagdishpur P.S. Case No. 127/2024 and



hence, the relief sought by the petitioner could not be granted.

20. So far as the prayer of the petitioner regarding release of the vehicle is concerned, it has been submitted on behalf of the respondent Mining Department that a penalty amount of Rs. 8,15,930/- has been imposed in terms of Rule 51(1)(b) read with Rule 56 of the '2019 Rules' and the petitioner can get the release of the vehicle by paying this penalty amount, the petitioner has an available remedy in the form of an appeal before the competent authority under Rule 67 of the '2019 Rules'. However, the truck of the petitioner has been seized on 02.11.2024 and almost 1 year and 3 months have elapsed and the vehicle of the petitioner has been losing its road-worthiness, hence I am of the view that the respondent authorities could be directed to release the vehicle subject to payment of the penalty amount in easy installments.

21. While dealing with the seized vehicles from time to time by the police either in commission of various offences or abandoned vehicles or vehicles which are recovered during investigation of complaint of thefts, the Hon'ble Supreme Court in the case of *Sunderbhai Ambalal Desai vs. State of Gujarat*, (2002) 10 SCC 283 observed as under:-

*"In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the*



*Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.*

*In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If Insurance company fails to take possession, the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.”*

22. Accordingly, the concerned respondent is directed to release the Tata truck of the petitioner bearing Registration No.UP-51AT-0925 on payment of penalty amount of Rs.8,15,930/- in fifteen monthly installments. The Truck in question would be released after payment of first installment of Rs. 60,000/- before the authority concerned, on or before 30<sup>th</sup> March, 2026, and rest penalty amount would be paid in fourteen equal monthly installments on or before 30<sup>th</sup> of every month, subject to further satisfaction of the court concerned, if the petitioner is so inclined.



23. With the aforesaid observations/directions, the present petition stands disposed of.

**(Arun Kumar Jha, J)**

V.K.Pandey/-

<b>AFR/NAFR</b>	NAFR
<b>CAV DATE</b>	12.12.2025
<b>Uploading Date</b>	20.02.2026
<b>Transmission Date</b>	20.02.2026

