

FORM OF ORDER SHEET**Cr. Misc. Application No.:- 815 of 2022****G.R. Case No. 191/2022(S)****Muffasil P.S. Case No.:- 04 of 2022**

Serial No.	Date of order of proceeding	Order with signature of the court	Office action taken with date
1	2	3	4
	10.02.2023	Record put up for hearing on Miscellaneous Criminal Application No. 815/2022 dated 10.10.2022 filed U/s 451 Cr.P.C. for release of trucks bearing registration No. CG-12AU-7154 and CG-12AX-9554 in favour of power of attorney holder Amarnath Mishra, S/o Ratikant Mishra, R/o Plot No. 168, T.P. Nagar, Ward No. 09, Korba (Chhatisgarh). Copy of petition has been received by learned A.P.P. Heard both sides and perused the case record. Learned counsel for the petitioner submitted that the petitioner Amarnath Mishra is registered power of attorney holder authorized by Anju Devi Mishra, W/o Amarnath Mishra, R/o Plot No. 168, T.P. Nagar, Korba, Tehsil, Distt.-Korba (Chhatisgarh) of trucks bearing registration No. CG-12AU-7154 and CG-12AX-9554 which has been seized in this case and is lying in Muffasil P.S. in open sky. There is every chance to damage by the nature. Petitioner having all relevant papers up-to-date with respect to the above vehicles. Petitioner is ready to file adequate surety bond for release of above vehicles. Therefore, prayed that the above vehicles may be released in favour of petitioner. Learned A.P.P. vehemently opposed the prayer and submitted that a confiscation proceeding as per Rule 11(v) of Jharkhand Mineral (Prevention of illegal	

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Mining, Transportation and Storage) Rules, 2017 has been started by the court of Deputy Commissioner, Simdega and the power of this court to release the vehicle has been ousted.

From perusal of record, it appears that a written report filed by informant Pratap Minz, Circle Officer, Simdega to the O/C Muffasil P.S. to the effect that on 12.04.2022 at 7:00 A.M. in course of raid against illegal mining and transportation of minerals, two trucks were found coming from the side of Sewai. They were stopped near Kochedega Mahua Toli School, Kurdeg Road and found that coal was loaded in both of them. The transit permit was demanded from its drivers but they could not produce the same. Both the trucks were brought to Pawan Dharam Kata situated at Simdega Bazar Samiti with the help of members of raiding party and armed forces and weighed there. On being weighed the gross weight of truck bearing registration No. CG-12AU-7154 along with loaded coal was found 44,200 kg while that of vehicle bearing registration No. CG-12AX-9554 along with loaded coal was found to be 47,840 kg. After being weighed both the trucks were brought to Simdega police station. Accordingly a case bearing Muffasil P.S. case No. 04/2022 dated 12.04.2022 U/s 414,34 IPC, section 21 MMDR Act,1957 & section 13 Jharkhand Minerals (Prevention of illegal Mining, Transportation and Storage) Rules, 2017 was registered against accused persons Golu Kumar, Shiv Saket and others. It appears that aforesaid vehicles have been seized in this case vide seizure list dated 12.04.2022. Vide letter No. 492 dated 01.11.2022 and vide letter No. 575 dated 29.11.2022 of District Transport Office, Simdega the registered owner Anju Devi Mishra of vehicles bearing

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registration No. CG-12AU-7154 and CG-12AX-9554. The report of confiscation has been submitted by the Deputy Commissioner, Simdega vide letter No. 36/vidhi dated 28.01.2023 in which it is stated that the Confiscation Case No. 02/2022-23 has been initiated in connection with trucks bearing registration No. CG-12AU-7154 & CG-12AX-9554 seized in connection with Muffasil P.S. Case No. 04/2022.

It appears that the present case has been filed U/s 414,34 IPC, section 21 MMDR Act,1957 & section 13 Jharkhand Minerals (Prevention of illegal Mining, Transportation and Storage) Rules, 2017. Rule 11(v) of the said Rules empowers the court of Deputy Commissioner to order for confiscation of such mineral, tool, equipment, vehicle or anything seized. It also appears that in exercise of power mentioned in Rule 11(v) the Deputy Commissioner, Simdega has started the confiscation case bearing Confiscation Case No. 02/2022-23 (Government Vs. Anju Devi Mishra). In such circumstance, the power of court to release the vehicle gets ousted. Accordingly the prayer to release the vehicles bearing registration No. CG-12AU-7154 & CG-12AX-9554 is hereby rejected. Miscellaneous Criminal Application No. 815/2022 is accordingly disposed of.

(Dictated)

Sd/-

(Anand Mani Tripathi)
Chief Judicial Magistrate
Simdega