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Court : Jharkhand

Decided On : Jun-20-2013

Appellant : Sanjay Kumar Sao Alias Sanjay Kumar Shaw

Respondent : State of Jharkhand

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI Cr. Revision No. 434 of 2013 Sanjay Kumar Sao @ Sanjay Kumar Shaw Petitioner Versus The State of Jharkhand .. Opposite Party ----- CORAM : HONBLE MR. JUSTICE H. C. MISHRA ----- For the Petitioner : Mr. Rajan Raj, Advocate For the State : A.P.P. ----- 2/ 20.06.2013 Heard learned counsel for the petitioner and learned A.P.P. for the State. The petitioner is aggrieved by the order dated 15.4.2013 passed by Sri Anand Mani Tripathi, learned Judicial Magistrate 1st Class, Dhanbad, in G.R. No. 1992 of 2011, whereby the application filed by the petitioner for release of coal, seized in connection with this case from the refractory premises, has been rejected by the Court below, stating that earlier an application for release of coal was rejected on 26.11.2011. It is apparent from the impugned order itself that earlier an application for release of coal was rejected in view of the fact that at this stage, the case was in investigation itself. After completion of the investigation, the petitioner has again filed the application for release of the coal seized from the premises. It may be stated that the petitioner has been made accused in Chirkunda P.S. Case no. 116 of 2011 corresponding to G.R. No. 1992 of 2011 for the offences under Sections 414/34 of the Indian Penal Code, as 6970 kg. of coal was recovered from the said refractory on the allegation that the same was stolen

property. It appears from the impugned order that the petitioner subsequently filed the documents relating to the coal, which were sent for police verification and upon police verification, it was found to be valid and genuine. However, the application filed by the petitioner for release of coal in question was rejected on the ground that the investigation is still going on. After completion of the investigation, the petitioner again filed the application for release of coal, which was again rejected by the Court below. It appears that trial is going on in the case and the petitioner is facing trial. Learned counsel for the petitioner has submitted that the impugned order passed by the Court below is absolutely illegal, inasmuch, as there is no theft report with respect to the coal in question and once the document was found to be genuine and valid, the seized coal ought to have been released in favour of the petitioner. Learned A.P.P. for the State, on the other hand, has opposed submitting that the charge sheet has been filed against the petitioner finding that coal is stolen property. From perusal of FIR, it appears that 6970 kg. of coal was recovered from the refractory of the petitioner, which was alleged to be stolen property. Though from the other refractory, cycles on which the coal were brought, were also seized, but not a single cycle was seized from the refractory of the petitioner, only 6970 kg of coal were seized by the police. The impugned order shows that the documents produced by the petitioner were verified by the police and they were found to be genuine. In that view of the matter and in view of the fact that there is no theft report with respect to the coal in question, I am of the considered view that since the coal was admittedly recovered from the refractory premises, the same ought to have been released in favour of the petitioner, upon taking such undertaking/sureties/bonds from the petitioner, as may be deemed fit and proper in the facts and circumstances of the case by the Court below, including the undertaking that release of the coal shall not prejudice the case of the prosecution in any manner whatsoever. In view of the aforementioned discussions, the impugned order dated 5.4.2013 passed by Sri Anand Mani Tripathi, learned Judicial Magistrate 1st Class, Dhanbad, in G.R. No. 1992 of 2011, is hereby, set aside and the Court below is directed to pass the order afresh in accordance with law, as also in view of the observations made above. This revision application is, accordingly, allowed. (H. C. Mishra, J.) R.Kr.