

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8659 of 2016

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1. Nand Kishore Singh @ Dhuri Gope S/o Late Rajdeo Singh Resident of Village- Raghobpur, New By Pass, P.S.- Bakhtiyarpur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Collector Patna, P.S.- Kotwali, District- Patna.
2. The Collector Patna, P.S.- Kotwali, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rudal Prasad, Adv

For the Respondent/s : Mr. Anil Kumar Tiwary AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

2 14-06-2016 Heard Mr. Rudal Prasad learned counsel appearing for the petitioner and learned counsel for the State-respondents.

The prayer of the petitioner in the present application is for a direction to release the truck bearing registration no. BR-01-GB-0963 which has been seized in the Pandarak P.S. Case No. 45 of 2015 under Section 7 of the E.C. Act and Section 406 and 420 of the Indian Penal Code with a further prayer to quash the order dated 27.02.2016 passed by the Collector, Patna in Confiscation Case No. 8 of 2015-16. Learned counsel for the petitioner has categorically stated before the Court that the truck in question bearing registration no. BR-01-GB-0963 has been taken on hire by the Food Corporation of India from the petitioner and thereafter certain goods were laden thereupon as is



evident by Annexure-3. It has also been stated that the petitioner is not a PDS dealer and is not concerned in any manner with the goods laden on the truck and seized in the Pandarak P.S. Case No. 45 of 2015. It has been submitted that the truck of the petitioner is a commercial vehicle and is source of livelihood of the petitioner and its condition would deteriorate if it would be lying in the idle in the premises of the authorities for want of due care etc.

It has also been submitted that in CWJC No.15398/2015 on identical facts, this Court has passed the order on 08.10.2015 (Annexure-6) for the release of the truck.

After considering the submissions and the materials on record, it is apparent that the order (Annexure-6) has been passed by this Court in CWJC No.15398/2015 for release of the truck in a proceeding arising out of the same Pandarak P.S. Case No.45/2015 but before the final order in confiscation proceeding was passed. In the present case the final order in the confiscation proceeding has been passed on 27.02.2016 (Annexure-1). This order passed in confiscation proceeding as impugned in the present application has been passed under Section 6 (A) of the E.C.Act and is however appealable.

In this backdrop, this Court taking into notice of the

statement made on behalf of the petitioner that the truck in question is a commercial vehicle and was given on hire to the Food Corporation of India for transporting the food grains and the petitioner has no concern with the goods laden therein, would grant liberty to the petitioner to question the order of confiscation as impugned in the present application before the appellate authority within four weeks from the date of this order by filing the appeal alongwith application for provisional release of the truck in question and the appellate authority thereupon shall pass appropriate order in accordance with law directing the provisional release of the truck bearing registration no. BR-01-GB-0963 of the petitioner on furnishing adequate security as well as the identity proof. It is further directed that the petitioner will not transfer the ownership of the truck by way of sale or otherwise and produce the same before the court/authorities as and when required. The release of the truck bearing registration no. BR-01-GB-0963 shall be subject to the aforesaid conditions.

Subject to the aforesaid observation and direction, this application is accordingly disposed of.

(V. Nath, J)

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