

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5652 of 2016

Niraj Kumar @ Niraj Kumar Singh, son of Sri Manoj Kumar Singh,
resident of Village- Kurmuri, P.S.- Sikarhatta, District- Ara, Bihar.

.... Petitioner

Versus

1. The State of Bihar through the District Magistrate, Bhojpur at Ara.
2. The Block Development Officer cum Circle Officer, Tarari, District Bhojpur, Bihar.
3. The Officer In Charge cum Investigating Officer, P.S. Sikarhatta, District Bhojpur, Bihar.
4. The District Manager, State Food Corporation, Bhojpur, Bihar.

.... Respondents

Appearance :

For the Petitioner : Mr. Prabhat Ranjan, Advocate
For the State : Mr. Apurva Kumar, A.C. to G.A. 11

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 06-04-2016

Heard learned counsel for the petitioner and the State.

Petitioner seeks release of rice contained in 6485 bags excluding 500 bags loaded on truck bearing registration no.JH-01-AE- 5356 as well as 450 bags loaded on truck bearing registration no.WB-25 B -3827 which were seized on 02.02.2016 giving rise to confiscation case no.9/2015-16 and Sikarhatta P.S. Case No. 13/2016 registered under sections 411, 120(B) of the Indian Penal Code and Section 7 of the Essential Commodities Act.



It is contended on behalf of the petitioner that the petitioner is proprietor of M/s. Singh Rice Mill and has been registered with the Sales Tax Department, Government of Bihar and he used to mill rice for the Primary Agricultural Cooperative Society (PACS) and farmers. It is further contended that the seized foodgrains are perishable articles for which confiscation proceeding has already been initiated and there is no occasion for keeping the same in godown for being perished.

Learned counsel for the State submits that seizure has been made on serious allegation and confiscation case is going on. Thus, the petitioner should be relegated to the competent authority.

In my view, if the food-grains, being perishable articles, are released after keeping necessary sample and after obtaining necessary surety, it will prejudice none.

Having regard to the facts and circumstances of the case, let the aforesaid quantity of the seized articles be released in favour of the petitioner by the District Magistrate, Bhojpur at Ara, who happens to be the confiscating authority, within a period of four weeks from the date of receipt/production of a copy of this order on furnishing sufficient guarantee/security, 10% of that in the nature of cash / bank guarantee, to the satisfaction of the confiscation authority and on proper verification of the ownership after keeping sufficient

quantity as sample to be exhibited in the case concerned.

However, the release would be subject to final result of the confiscation case no.9/2015-16 as well as Sikarhatta P.S. Case No. 13/2016

This disposes of the writ petition.

(Dr. Ravi Ranjan, J)

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