

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 1306 of 2016

Arising out of P.S. Case No. - null Year - null Thana - null District - NALANDA (BIHARSHARIFF)

Dhuri Ram, Son of Late Jodhan Ram, Resident of Village/Mohalla - Meyar, P.S. -
Noor Sarai, District - Nalanda

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Food Supply, Department Bihar, Patna
2. Principal Secretary, Supply Department, Govt. of Bihar, Patna
3. District Magistrate cum Collector, Nalanda at Bihar Sharif
4. Sub-Divisional Officer, Bihar Sharif, Nalanda
5. Sub-Divisional Judicial Magistrate, Bihar Sharif, Nalanda

.... Respondents

Appearance :

For the Petitioner : Mr. Rajendra Prasad, Sr. Advocate
Mr. Ritesh Kumar, Advocate
Mr. Pramod Kumar, Advocate

For the Respondents : Mr. Upendra Pratap Singh, A.C. to S.C.IV

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 18-04-2017

The petitioner has invoked the writ jurisdiction of this Court for issuance of appropriate direction to the respondents to release the vehicle (Van) bearing registration no. BR-01GC-8498 of the petitioner which was seized in connection with Noor Sarai Police Station Case No. 191 of 2016 for the alleged violation and offence punishable under Section 7 of the Essential Commodities Act. The prayer is on the ground that the vehicle was seized on 23.07.2016 and the same is still lying in the police lock-up without any use and utility of the petitioner.

2. Contention of the petitioner is that, initially, prayer for release of the vehicle was made to the Sub-Divisional Judicial Magistrate, Bihar Sharif who refused to release the vehicle on the ground



that a confiscation proceeding before the District Magistrate, Nalanda is already going on in respect of the seized vehicle. Thereafter a petition was filed on 27.10.2016 for interim release of the vehicle in favour of the petitioner before the District Magistrate, Nalanda. No order has been passed on that petition as per statement on oath of the petitioner in the supplementary affidavit.

3. Learned counsel for the petitioner has relied on the order of a Coordinate Bench of this Court in Cr.W.J.C. No. 1003 of 2016 (Vinod Kumar & Anr. Vs. The State of Bihar & Ors.) dated 10.11.2016 for his submission that in a case registered under Section 7 of the Essential Commodities Act, a Coordinate Bench of this Court had allowed release of the seized vehicle in favour of its owner.

4. Perused the order dated 10.11.2016 aforesaid.

5. Without going into the merit of the legality and seizure of the vehicle or continuance of the confiscation proceeding, what I find is that continuance of seizure is not going to serve any purpose in the confiscation proceeding or during the trial.

6. Since the petitioner is being deprived of the uses of the same consequently by way of ad interim custody of the vehicle, it is ordered that the van bearing registration no. BR-01GC-8498 be released in favour of the petitioner on execution of security bond of Rs.5,00,000/- (rupees five lacs) along with two sureties of the like amount to the



satisfaction of the District Magistrate, Nalanda at Bihar Sharif in connection with Noor Sarai Police Station Case No. 191 of 2016, with further condition that the petitioner shall not dispose of the said vehicle without prior permission of the District Magistrate and shall produce as and when required by the District Magistrate concerned.

7. The writ application stands disposed of accordingly.

(Birendra Kumar, J)

Kundan

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	25.04.2017
Transmission Date	25.04.2017

