

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1031 of 2017

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1. Md. Hassan Khan Son of Maqsd Alam Khan Resident of Village - Chanomari, P.S. and District - Kohima (Nagaland), At present Resident of Village - Pirwan, P.S. - Salaiya, District – Aurangabad Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Development Department
2. The District Magistrate, Gaya
3. The Block Supply Officer, Gurua, District - Gaya
4. The Officer Incharge, Police Station - Gurua, District - Gaya
.... Respondents

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Appearance :

For the Petitioner : Mr. Arvind Kumar Singh
For the Respondents : M/S Upendra Pratap Singh & S.K. Mallick,
AC to SC IV

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 19-07-2017

Heard the parties.

The petitioner has invoked the writ jurisdiction of this Court for quashing the order, dated 01.06.2017, passed in Gurua P.S. Case No. 116 of 2016, corresponding to G.R. No. 1433 of 2016, registered for offence under Section 7 of the Essential Commodities Act.

By the impugned order, the Court of the learned Judicial Magistrate, 1st Class, Sherghati, Gaya, has refused the prayer for the petitioner to release his truck bearing registration no. NL-01D-6851 for the reason that Excise Confiscation Case No. 19 of 2016 has already been initiated for confiscation of the said truck.

The question of law whether an executive authority has power to confiscate and auction the vehicle which is a judicial function is under consideration before a larger Bench in L.P.A. No. 1647 of 2015 (**Baleshwar Roy Vrs. The State of Bihar & Ors.**).



Considering the aforesaid pendency in C.W.J.C. No. 3554 of 2017 (**Ashok Kumar Singh, Vrs. The State of Bihar & Ors.**) and some other writ applications, a Division Bench of this Court ordered for interim release of the vehicle in favour of the owner.

Considering the aforesaid pendency in C.W.J.C. No. 3554 of 2017 (**Ashok Kumar Singh, Vrs. The State of Bihar & Ors.**) and some other writ applications, a Division Bench of this Court ordered for interim release of the vehicle in favour of the owner.

Considering the aforesaid factual and legal position, the further proceeding of Gurua P.S. Case No. 116 of 2016, corresponding to G.R. No. 1433 of 2016 (Excise Confiscation Case No. 19 of 2016), let the above referred truck be release in favour of the petitioner by way of ad interim custody on furnishing surety bond of Rs. 20,00,000/- (rupees twenty lakh) (not in the form of cash or bank guarantee) with two sureties of the like amount each to the satisfaction of the Judicial Magistrate, 1st Class, Sherghati, Gaya, with condition that the petitioner shall not dispose off the same or put the same under encumbrance without the permission of the Court.

Accordingly, this writ application stands **disposed off**.

(Birendra Kumar, J)

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