

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2059 of 2017

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Raman Kumar Singh, S/o Late Ramchandra Prasad Singh, Resident of
Gautam Nagar, P.S.- Saharsa, District- Saharsa.

.... Petitioner

Versus

1. The State of Bihar through the Collector, Bhagalpur
2. The Collector, Bhagalpur.
3. The Block Supply Officer, Jagdishpur, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. N. K. Agrawal, Sr. Advocate
Mr. Anujit Sinha, Advocate
For the Respondents : Mr. Shashi Shekhar D. Sinha, AC to GA6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 09-03-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

This matter can be disposed of without waiting for the counter affidavit, as the petitioner had approached this Court earlier and obtained order of release of the vehicle which is subject matter of confiscation proceeding having been initiated in connection with Jagdishpur Area P.S. Case no. 37 of 2016 for offence under Sections 406, 409, 420 and 120B of the Indian Penal Code and also under the Essential Commodities Act which led to confiscation proceeding registered as Confiscation Case no. 84 of 2015-16.

The petitioner had approached this Court in C.W.J.C.



no. 7526 of 2016 for release of the vehicle as the vehicle remains standing uncared in the open garage at the police station. Since there would be a substantial deterioration in the condition of the truck, this Court passed the order dated 04.5.2016 thereby allowed to release the vehicle subject to furnishing sufficient security/surety/guarantee to the satisfaction of the Collector, Bhagalpur, after due verification and with further condition that whenever the vehicle would be required for physical presence before the confiscating authority, the owner of the truck shall be obliged to produce the same for its proper verification. It will be relevant to quote operative portion of the order.

“ Having regard to the aforementioned facts and circumstances, this Court deems it fit and proper to direct the confiscating authority to release the truck bearing registration no. DL_1GA-6303 in favour of the petitioner on furnishing sufficient security/surety/guarantee to the satisfaction of the Collector Bhagalpur, after due verification of ownership with further condition that whenever the vehicle in question would be required either in the confiscation proceeding or police case, that would have to be produced by the owner in whose favour that would be released and, further, that the petitioner would not dispose of, alter or modify the vehicle till the aforesaid cases are pending.

The release would be subject to the result of the confiscation case as well as the criminal case concerned.

It is expected that the whole exercise would be completed within a period of eight weeks from the date of receipt/production of a



copy of this order.

This disposes of the writ petition. ”

The Collector while passing the order of release of the vehicle, has not followed the direction of this Court, by putting condition that one of the sureties will be a Class-I officer either of the Central Government or the State Government.

Learned counsel for the petitioner submits that it is possible to obtain such surety and it amounts to negation of release of the vehicle which is the subject matter of this case and it also amounts to overreaching the order passed by the Court. He also submits that in similar case, similar type of condition was imposed in the matter of Manoj Kumar, who had approached this Court in C.W.J.C. no. 19612 of 2016 and this Court looking into the entire facts and circumstances has modified the order substituting, one of surety would be close relative or family member of the petitioner, who will file an affidavit before the confiscating authority giving complete genealogy to show his/her relationship.

In such circumstances, this Court is of the view that the condition, which has been imposed by the Collector, is impossible to obtain such officer of higher rank for the purpose of release of the truck. In such situation, the condition which has



been imposed by the Collector is replaced with the direction that one of the sureties shall be a close relative of the petitioner, who will file an affidavit before the confiscating authority giving complete genealogy to show his/her relationship with the petitioner and it is also made clear that petitioner, who is the owner of the vehicle, will be liable to produce the vehicle whenever it is called by the police officials or by the confiscating authority. If the petitioner satisfies the two conditions, his vehicle shall be released.

With the aforesaid direction the present petition stands disposed of.

(Shivaji Pandey, J)

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