

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 2065 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- GAYA

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1. M/S Om Traders through its proprietor Jitendra Kumar @ Jitu Singh, Son of Late Shiv Shankar Prasad Singh, Resident of Village - Jmuawan, Police Station - Wazirganj, District - Gaya.
 2. Suresh Kumar Verma, Son of Sri Rajendra Prasad, Resident of Village - Raghwachak, Police Station - Fatehpur, District - Gaya

.... Petitioners

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Principal Secretary, Food & Consumer Protection Department, Govt. of Bihar, Patna.
3. The District Magistrate, Gaya.
4. The Senior Superintendent of Police, Gaya.
5. The Deputy Superintendent of Police, Sadar Gaya.
6. The Sub Divisional Officer, Sadar Gaya.
7. The Block Supply Officer, Wazirganj, Dist. - Gaya.
8. The Officer in Charge, Police Station - Wazirganj, Dist. - Gaya.

.... Respondents

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Appearance :

For the Petitioners : Mr. Binay Kumar, Advocate

For the Respondents : Mr. Arvind Ujjwal, SC-4

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the parties.

2. According to FIR of Wazirganj P.S. Case No. 420 of 2017, truck bearing registration no. JH02H-8733 was found carrying subsidized rice, allegedly, to be sold in the black market and, accordingly, FIR was registered under Sections 467, 468, 420, 120B of the Indian Penal Code and Section 7 of the Essential Commodities



Act.

3. The present writ application has been filed for release of the entire seized rice, which was 126 quintals, on the ground that the petitioner no. 1 is a business man who had purchased the same from Shiv Guru Rice Mill vide receipt at Annexure-2 series and another petitioner is owner of the truck which was carrying the said rice.

4. Since rice is a perishable item, considering the entire facts in favour of the petitioner no. 1 for the purpose of release of the rice, let the same be released in favour of the petitioner no. 1 on execution of surety bond of Rs.3,00,000/- (rupees three lakhs) to the satisfaction of the authority concerned where the case is pending.

5. Further prayer is that the truck bearing registration no. JH02H-8733 be also released by way of ad interim custody in favour of its owner i.e. petitioner no. 2 on execution of surety bond of Rs.20,00,000/- (rupees twenty lakhs) along with two sureties of the like amount to the satisfaction of the learned court below/authority concerned where the case is pending, with condition that the petitioner no. 2 would not dispose of the said vehicle or put the same under encumbrance without permission of the authority concerned and shall produce as and when required by the Court.

6. The aforesaid release has been ordered considering the fact the matter is sub judice before a Larger Bench of this Court in



L.P.A. No. 1647 of 2015 (**Baleshwar Roy vs. The State of Bihar & Ors.**) as to whether the executive authority can exercise the power of confiscation which is exercisable by a judicial authority.

7. With the aforesaid observation, this application stands disposed of.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	08.12.2017
Transmission Date	08.12.2017

