

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 2056 of 2017

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

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Suresh Rai, S/o Dudhnath Roy, R/o Village – Balha Araj, P.O. – Lawarampur, P.S.
Bhagwanpur Hat, District Siwan

.... Petitioner

Versus

1. The State of Bihar, through the Collector, Siwan
2. The District Magistrate-cum-Collector, Siwan
3. The Block Supply Officer, Bhagwanpur Hat, Siwan
4. The District Programme Officer, Midday Meal Programme, Siwan

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhananjay Kumar Shahi, Advocate

For the Respondents : Mr. S. Raza Ahmad, AAG V

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsel for parties.

From the Bolero Pick-up of this petitioner bearing registration no. BR-29-GA-2366 rice was being unloaded. Suspicion is that the rice was of midday meal for the school students and the vehicle was used in the black marketing of the rice. For the occurrence aforesaid, Bhagwanpur Hat P.S. Case No. 45 of 2017 was registered under Section 7 of the Essential Commodities Act and subsequently the Collector, Siwan has initiated confiscation proceeding for confiscation of the said vehicle vide Confiscation Case No. 285 of 2017-18.

Submission of the learned counsel for the petitioner is that the petitioner has already filed a petition for release of the aforesaid vehicle before the Collector, Siwan. However, no order has been



passed up-till-now.

Submission of the learned counsel for the petitioner is that pre-trial confiscation would amount to pre-trial punishment which is not permissible in law and this issue is being under consideration before a Larger Bench of this Court in L.P.A. No. 1647 of 2015 **(Baleshwar Roy vs. The State of Bihar & Ors.)**.

Let the aforesaid vehicle be released in favour of the petitioner on execution of surety bond of Rs.3,00,000/- (rupees three lakhs) (not in the form of bank guarantee or cash) along with two sureties of the like amount each to the satisfaction of the learned court below/authority concerned where the case is pending, with condition that the petitioner 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.

The release shall be subject to the final result of the pending L.P.A. aforesaid.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	17.11.2017
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