

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1239 of 2017

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1. Abdul Razzaque Son of Late Dost Mohammad Resident of Nawab Colony, Maulana Chak Road P.S. Habibpur, District Bhagalpur
..... Petitioner

Versus

1. The State of Bihar Through The Principal Secretary, Department of Home, Govt. of Bihar Patna.
2. The District Magistrate, Bhagalpur.
3. The Senior Superintendent of Police, Bhagalpur.
4. S.H.O. Mojahidpur Police Station, Bhagalpur.
5. S.H.O. Babarganj Outpost, Mojahidpur, Bhagalpur.
6. Block Supply Officer, Sabour-cum- Incharge Town Area 39 to 51, Bhagalpur
..... Respondents

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Appearance :

For the Petitioner : Mr. Dr. Manoj Kumar, Adv.
For the Respondents : Mr. Parth Sarthi (Ga4)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 21-08-2017

Heard the parties.

The truck of the petitioner, bearing registration no. WB-65A-7067, was seized along with some other trucks from near a godown at Bhagalpur and Mojahidpur (Babarganj) P.S. Case No. 121 of 2016 was registered under Section 7 of the Essential Commodities Act.

The petitioner filed a petition on 29.05.2017 before the Subdivisional Judicial Magistrate, Bhagalpur, for release of the truck on the ground that petitioner is the owner of the truck and no purpose would be served in continuance of the seizure of the truck rather it would cause external and internal damage of the vehicle. The learned Subdivisional Judicial Magistrate, Bhagalpur, called for a report from the local police station as well as the District Magistrate, Bhagalpur. The District Magistrate, Bhagalpur, reported that a confiscation proceeding is already going on, in the circumstances, the learned Subdivisional Judicial Magistrate,



Bhagalpur, where the case was transferred, has refused the prayer of the petitioner.

Learned counsel for the State-respondent prays for time to file counter affidavit. The prayer is refused as no new fact would come as a confiscation proceeding of the seized truck is pending.

Submission of the petitioner is that a similar matter was considered by a coordinate Bench of this Court in Cr.W.J.C. No. 751 of 2016 and the Court passed the following orders :

“Without going into the merit of the legality of the seizure of the vehicle, I find that continuance seizure of the Tank Lorry is not serving any purpose. The petitioner is being deprived of the user of the same. Consequently, the Tank Lorry No. UP 15 5255 is ordered to be released on superdari to the satisfaction of the Subdivisional Judicial Magistrate, Nalanda at Biharsharif, in connection with Giriyak P.S. Case No. 90 of 2016.”

I am in agreement with the aforesaid view of the Court. Since, no purpose is going to serve to continue with the detention of the vehicle and there is provision for deposit of money equivalent to the costs of the vehicle after the order of confiscation is confirmed.

Let the truck be released on petitioner's furnishing surety bond of Rs.10,00,000/- (rupees ten lakh) with two sureties of the like amount each to the satisfaction of the Subdivisional Judicial Magistrate, in connection with Mojahidpur (Babarganj) P.S. Case No. 121 of 2016.

Let a copy of this order be communicated to the



District Magistrate, Bhagalpur, also where confiscation proceeding is going on.

Accordingly, this writ application is allowed.

(Birendra Kumar, J)

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