

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1433 of 2018

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1. Ritu Kumari, D/o Mahabir Prasad Sah, Resident of Mohalla- Aliganj
Gangti Road- P.S. Babarganj, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar, Through The Principal Secretary, Department of Home, Bihar, Patna.
2. The District Magistrate, Bhagalpur.
3. The Senior Superintendent of Police, Bhagalpur.
4. The S.H.O. Mojahidpur Police Station, Bhagalpur.
5. The S.H.O. Babarganj Out Post, Mojahidpur, Bhagalpur.
6. The Block Supply Officer, Jagdishpur cum Marketing Officer of Ward No.-40 to 51 Urban area Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dr. Manoj Kumar

For the Respondent/s : Mr. Sheo Shankar Prasad (Sc 8)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 28-05-2018 Heard learned counsel for the petitioner and the State.

The Pick up Van of the petitioner bearing registration No. WB-19-J-3515 was seized while standing in the outside of godown of the rice mill and Mojahidpur Babarganj P.S. Case No. 25 of 2018 registered u/S 7 of the Essential Commodities Act.

The allegation is that the vehicle was involved in black-marketing of the rice.

The petitioner filed a petition on 15-02-2018 before the learned Chief Judicial Magistrate, Bhagalpur for release of the Pick up Van on the ground that no purpose would be served by continuation of the seizure of the Pick up Van rather it would



cause external and internal damage to the vehicle. By order dated 17-04-2018 the learned CJM, Bhagalpur has rejected the prayer of the petitioner on the ground that confiscation proceeding is going on before the District Magistrate, Bhagalpur.

Submission of the learned counsel for the petitioner is that the issue whether the Executive Authority can exercise power of a Judicial Authority to confiscate the vehicle is under sub judice before a Larger Bench of this Court in LPA No. 1647 of 2015 (Baleshwar Roy Vs. The State of Bihar & Ors.). Hence, till disposal of the LPA aforesaid, further proceeding in pursuance of the impugned order be stayed and the vehicle be released as ad interim custody in favour of the petitioner as no purpose is going to be served by its continued detention.

Learned Counsel for the State-respondents submits that he has no objection.

Since the competency of the authority concerned (Executive Authority) to confiscate the vehicle is sub judice before the court, there is no reason to not grant the interim relief to the petitioner till adjudication of the aforesaid issue.

Hence, it is ordered that the operation of the impugned order shall remain stayed and shall be subject to the result of the LPA aforesaid.



Let the referred vehicle be released in favour of the petitioner by way of ad interim custody on execution of surety bond (not in the form of bank guarantee or cash) of Rs. 5,00,000/- (five lacs) along with two sureties of the like amount to the satisfaction of the District Magistrate, Bhagalpur with condition that the petitioner shall not dispose of the same without permission of the Court and shall produce as and when required.

Accordingly, this application stands disposed of.

(Birendra Kumar, J)

A.K.V./-

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