

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.2193 of 2017**

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Arjun Sao son of Sri Prasadi Sao, resident of Village- Nagma, Police  
Station- Fatehpur, District- Gaya.

.... .... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary Food & Consumer  
Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Gaya.
3. The Sub Divisional Officer, Sadar Gaya.
4. The Block Supply Officer, Fatehpur, District- Gaya.
5. The Officer In charge, Fatehpur Police Station, District- Gaya.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Binay Kumar, Adv.

For the Respondent/s : Mr. S.Raza Ahmad, AAG-5

Mr. Alok Ranjan, Ac to AAG-5

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN**

**PRASAD**

**ORAL ORDER**

4      15-01-2018                      Heard learned counsel for the petitioner and learned  
counsel representing the State.

Petitioner, in the present case, is seeking release of  
62 quintals of rice and 41.50 quintals of wheat which were  
allegedly seized from the house of the petitioner by the Block  
Supply Officer, Fatehpur and a criminal case under Sections 406  
and 420 of the Indian Penal Code read with Section 7 of the E.C.



Act giving rise to Fatehpur P.S. Case NO.350 of 2017 has been lodged against him.

Learned counsel for the petitioner submits that in the present case even though a confiscation proceeding has already been initiated by the District Magistrate, but the food-grains in question have not been auction sold.

A supplementary counter affidavit has been filed on behalf of the respondent nos.2 to 4 in which they have categorically stated that the seized food articles are still lying with the custodian who had been entrusted with the custody of the seized food-grains.

Learned counsel for the petitioner submits that the question as to whether the Collector can initiate a confiscation proceeding and pass an order of confiscation is pending consideration before a Division Bench of this Court in LPA NO.1647 of 2015 arising out of a proceeding under the E.C. Act. He further submits that for the purpose of release of foodgrains, the petitioner would be ready and willing to abide by the terms and conditions which have been imposed in similar matter by different benches of this Court one of which is contained in the order dated 11.08.2016 passed in CWJC No.9336 of 2016.

Learned counsel representing the State does not



dispute the fact that the similar issue is pending consideration before a Division Bench of this Court in LPA NO.1647 of 2015.

In the facts and circumstances of this case, let 62 quintals of rice and 41.50 quintals of wheat which have been seized from the house of petitioner by the Block Supply Officer, Fatehpur be released in his favour on his furnishing sufficient surety to the extent of value of the rice and wheat as determined by the District Magistrate, Gaya. The petitioner shall furnish a surety 5% of which should be in the nature of cash or bank guarantee and the rest surety (not in form of cash or bank guarantee) shall be submitted along with two sureties of the like amount to the satisfaction of the District Magistrate, Gaya.

Prior to release of the food-grains, a photograph duly certified in presence of the petitioner and panchnama of the seized food-grains shall be duly prepared and kept on record which the petitioner undertakes not to dispute in course of trial or confiscation proceeding, as the case may be.

Petitioner further undertakes that he shall abide by the decision of this Court in LPA No.1647 of 2015.

The release should be ordered within a period of seven days from the date of receipt/production of a copy of this order together with the surety as stated above by the petitioner.



The writ application is disposed of.

**(Rajeev Ranjan Prasad, J)**

Arvind/-

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