

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9417 of 2018**

=====

Kalpana Saha Wife of Shri Siddharath Kumar Saha, Resident of Village - Dangi Basti Road, Police Station - Kishanganj, District - Kishanganj.

.... .... Petitioner

Versus

1. The State of Bihar through District Magistrate, Kishanganj.
2. The District Magistrate, Kishanganj.
3. The Superintendent of Police, Kishanganj.
4. The Officer-in-Charge, Kochadhaman Police Station, Kishanganj.
5. The District Supply Officer, Kishanganj.
6. The Assistant District Supply Officer-cum-Block Supply Officer, Kochadhaman, Kishanganj.

.... .... Respondents

=====

**Appearance :**

For the Petitioner : Mr. Rajesh Kumar Singh, Advocate.

For the Respondents : Mr. S. Raza Ahmad, AAG-5

=====

**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

**ORAL JUDGMENT**

**Date: 19-06-2018**

The present writ petition has been filed for setting aside the order dated 10.10.2017 passed in Confiscation Case No. 373 of 2017 by the learned District Magistrate, Kishanganj by which confiscation proceeding has been initiated under Section 6A of the Essential Commodities Act, 1955; further for a direction to the respondents to release the truck bearing registration no. BR-11GA/6097 in connection with Confiscation Case No. 373 of 2017 arising out of Kochadhaman P.S. Case No. 123 of 2017 registered under Section 7 of the E.C. Act and Black Marketing and Prevention Act, 1980 Clause 04(1).

2. Learned counsel for the petitioner submits that the issue whether the Collector is empowered to direct confiscation, which is a judicial function, has been referred to a larger Bench by order



dated 19.09.2016 passed in LPA No. 1647 of 2015. Pending decision by the larger Bench, a Division Bench of this Court in LPA No. 2383 of 2016 has taken the view that the vehicle can be released in the meantime.

3. Learned counsel for the respondents appears and has been heard.

4. The Division Bench in its order dated 17.04.2017 passed in LPA No. 2383 of 2016 referred to above, has directed as follows –

*“Keeping view the aforesaid, we direct for the release of the vehicle (Regn. No.BR-02AA-6312) in accordance to the conditions stipulated in para 5 of the order passed on 21.2.2017 in L.P.A. No. 306 of 2017 and impose a further condition that apart from the security bond a solvent surety shall be furnished by the petitioner to the satisfaction of the competent authority.”*

5. In L.P.A. No. 306 of 2017 referred to above, the vehicle in question was directed to be released provisionally on the following terms –

*“5. In the meanwhile we order that the vehicle in question (BR 26H-4109) be released provisionally to the satisfaction of the Authorized Officer-cum-Divisional Forest Officer, Rohtas at Sasaram on fulfillment of the following conditions:-*

*(i) The appellants shall furnish all the necessary papers/documents of ownership and security bonds (which will not include Bank Guarantee) as may be deemed fit and proper by the Divisional Forest Officer-cum-Authorized Officer, Rohtas Forest Division,*



*Sasaram, District- Rohtas.*

*(ii) The appellants shall undertake, in writing, that the vehicle, in question, shall neither be alienated nor be transferred in favour of any third party during the pendency of the confiscation proceeding and that the vehicles, in question, shall be produced as and when called upon or required in the confiscation proceeding or otherwise.*

*List after the decision of L.P.A. No. 1647 of 2015.”*

6. In the above view of the matter and considering that the challenge to the Collector’s jurisdiction to pass an order of confiscation is itself pending before a larger Bench of this Court, the present writ petition is disposed of with a direction to release the truck bearing no. BR-11GA/6097 and 250 bags of rice each 65 Kgs on the same terms as the aforesaid direction in LPA No. 2383 of 2016. Such release shall abide by the final decision in L.P.A. No. 1647 of 2015.

**(Vikash Jain, J)**

Md. Ibrarul/BT

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | N.A.       |
| Uploading Date    | 23.06.2018 |
| Transmission Date | N.A.       |

