

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2145 of 2018

Arising Out of PS. Case No.-340 Year-2018 Thana- BARAUNI District- Begusarai

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Gauri Kant Pathak son of Deo Raj Pathak, Resident of Village Piple, P.S. Bhandara, District Chitwan, Nepal.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Magistrate, Begusarai.
3. The Superintendent of Police, Begusarai.
4. The Officer Incharge, Barauni Police Station, Begusarai.
5. The Block Supply Officer, Barauni, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjiv Sharan
For the Respondent/s : Mr. Arvind Ujjwal (Sc-4)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 24-09-2018 This application has been preferred seeking release of Truck/Tanker bearing registration No. NA 7KH-2521 loaded with 19990 liter Diesel in favour of the petitioner which has been seized in connection with Barauni (Refinery) P. S. Case No. 340 of 2018 registered under Sections 413, 414 of the Indian Penal Code and Section 7 of the Essential Commodities Act.

Learned counsel for the petitioner submits that the Tanker loaded with diesel have been seized by the Block Supply Officer, Barauni on an allegation that the persons named in the F.I.R. were involved in black marketing of kerosene oil and diesel.



Learned counsel submits that despite time granted to the State to come with a counter affidavit after seeking instruction, no counter affidavit has been filed.

Learned counsel for the State is present and submits that he has not received any instruction in the matter.

In the given facts and circumstances and after going through the materials available on the record, this Court finds that the petitioner has categorically stated that he has taken permission of carrying petroleum class A or B under Petroleum Rules 2002 for his Tank Truck bearing Registration No. NA-7KH-2521 and he has also got a paper of Bihar Entry Tax from Bihar Government. The Bihar Entry Tax Receipts and other documents have been brought on record as Annexures-3 and 4 to the present application. It is categorically stated by the petitioner that the diesel has been loaded in the truck/tanker of the petitioner by the Indian Oil Corporation Ltd., Barauni and in this regard they have also given a money receipt for the same.

Since the State respondents have failed to controvert the materials available on the record, this Court does not find any reason to keep the application pending.

Let the Tanker/Truck loaded with the diesel be released in favour of the petitioner on the petitioner furnishing



documents of ownership and registration in his favour along with two local sureties to the extent of the value of the vehicle as indicated in the insurance document and the value of the diesel in the court below. Apart from the above, the petitioner shall be obliged to submit an undertaking before the learned court below that during the pendency of the confiscation proceeding he would not deal with the vehicle in question and shall not create any kind of encumbrance whatsoever and no third party right or interest shall be created. He would also undertake to produce the vehicle in question as and when required by the authority concerned. It is because presently no confiscation proceeding is said to be pending in connection with the Tanker/Truck in question.

This application stands disposed off.

(Rajeev Ranjan Prasad, J)

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