

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4396 of 2019

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Ajmohan Singh Kohli, S/o T. S. Kohli, Resident of PKT-16, G-18/6 Sector-15, P.S.- Rohani, North West Delhi, Distt.- Delhi proprietor of New Kohli Transport Corporation, Head Office, New Delhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Senior Superintendent of Police, Patna
3. The District Magistrate, Patna
4. The Sub Divisional Office, Patna
5. The District Supply Officer, Patna
6. The Marketing Officer, Patna
7. The Officer Incharge, Agamkuan, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shashi Bhushan Kumar
For the Respondent/s : Mr.S.Raza Ahamd (AAG5)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-03-2019 This writ application has been preferred for issuance of a writ of mandamus directing the respondents to release truck bearing Reg.No.NL01N7857, Engine No.GFPZ104844, Chasis No.MB1CTCFD5GPES 5226, which has been seized on 19.02.2019 in connection with Agamkuan P.S. Case No.188 of 2019 registered under Section 7 of the Essential Commodities Act.

Mr. Shashi Bhushan Kumar, learned counsel representing the petitioner submits that the truck was carrying rice which is not a controlled item. Reference in this regard has



been made to relevant gazette notification as contained in Annexure-4 to the writ application. It is further submitted that in similar matters the Hon'ble Division Bench has taken a view wherein the vehicles have been ordered to be released provisionally on certain terms and conditions. It is submitted that in the present case also the vehicle is lying under open sky and if it is not allowed to be provisionally released, it may lose its road worthiness over the period which is not going to help any gain on the part of the State.

Learned counsel for the State is present and has opposed the application for provisional release.

Having considered the rival submissions at the bar and on going through the records, this Court finds that the vehicle in question was intercepted while it was carrying 300 bags containing rice 135.00 quintals. In several such cases, the Hon'ble Division Bench of this Court has directed provisional release of vehicle, one of such orders is Annexure-5/3 to the writ application and there is no reason as to why similar view would not be taken in the matter.

Keeping in mind the aforesaid aspects, this Court directs provisional release of the vehicle in question on the petitioner furnishing documents of ownership and registration



with two surety bonds to the extent of the value of vehicle as indicated in insurance document to the satisfaction of the S.D.J.M., Patna City, Patna. One of the sureties must be a person having sufficient immovable property within the jurisdiction of the court below. The petitioner shall also furnish an undertaking that he will produce the vehicle as and when required by the authority concerned and shall not encumber the same in any manner whatsoever by creating any third party right. The petitioner shall not prejudice the right of the State. The vehicle in question shall be released within one week from the date of submission of the surety bonds.

The writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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