

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2588 of 2017

Arising out of PS. Case No.-229 Year-2016 Thana- ALOULI District- Khagaria

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Satish Singh, Son of Late Jainath Prasad Singh, Resident of Village- Dalan
Haripur, P.S.- Alauli, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Excise, Bihar,
Patna and Ors.
2. The District Magistrate, Khagaria.
3. The Superintendent of Police, Khagaria.
4. The Station House- Officer, Alauli, P.S. Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jagdhar Prasad, Advocate
For the Respondent/s	:	Mr. Anil Kumar Sinha, G.A. 1

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-02-2019

Heard learned counsel for the petitioner.

The petitioner has come for the release of his premises which has been confiscated under an order passed by the District Magistrate. The matter had been deferred on account of the issue of the scope and exercise of power of the District Magistrate in L.P.A. No. 1647 of 2015 where it has been held that pending the proceedings the Collector would not hold the power to release the premises or the confiscated item.

The Full Bench having answered the same, it has also held that the power of release can be exercised in



exceptional cases by the High Court.

In the matter of release of a vehicle, a Division Bench in the case of **Raj Kishore Singh Vs. The State of Bihar & Ors.** Vide order dated 3rd of December, 2018 passed in C.W.J.C. No. 8513 of 2018 observed that a provisional release order can be passed subject to the filing of an appeal by the aggrieved person.

We have gone through the said order passed and we find ourselves in agreement with the same and consequently adopting the same analogy we direct that the premises of the petitioner shall be provisionally released in connection with Alauli P.S. Case No. 229/2016 provided the petitioner tenders the original title documents of the premises as surety before the Collector-cum-District Magistrate, Khagaria who shall then pass an appropriate order for the provisional release of the premises which shall be subject to the outcome of the appeal. The petitioner shall be at liberty to file an appeal within 30 days from today and in the event any such appeal is filed, the same shall be disposed of on merits keeping in view the observations made hereinabove and in the judgment in the case of Raj Kishore Singh (supra).

The writ petition stands disposed of with the



aforesaid observation/direction. The aforesaid remedy of provisional release or appeal shall be available to the appellant, provided no further action has been taken with regard to the sale of the property pursuant to the confiscation proceedings.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-

AFR/NAFR	
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