

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15238 of 2019

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Lalu Kumar Son of Shiv Balak Yadav, Resident of Village-Kirtichak, P.S.-
Barh, District-Patna, Driver-Cum-Owner of the Pick-Up Vehicle bearing Reg.
No. BR-01-GH/0273.

... .. Petitioner

Versus

1. The State of Bihar through Secretary, Department of Home, Bihar, Patna.
2. The District Magistrate, Nalanda at Bihar Sharif.
3. The Superintendent of Police, Nalanda at Bihar Sharif.
4. The Police Inspector Cum S.H.O. Giriyak Police-Station.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Sinha, Advocate
For the Respondent/s : Mr.Md. N. H. Khan (Sc1)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 26-07-2019 Let the defect be ignored.

Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner in the present case is seeking a direction to
the respondent authorities to release the vehicle bearing
Registration No. BR-01GH/0273, Chassis No.
MA12P2TBKJ6G46808, Engine No. TBJ4G79586, which has
been seized in connection with Giriyak P.S. Case No. 21 of 2019
registered for the offences punishable under Section 7 of the
Essential Commodities Act.

In course of hearing, learned counsel for the petitioner
submits that till date the petitioner has no notice of any



confiscation case initiated against the vehicle in question.

Learned counsel for the State submits that in case no confiscation proceeding has been initiated for confiscation of the vehicle in question the remedy of the petitioner lies before the court below under Section 451 read with Section 457(2) of the Cr.P.C. and in case a confiscation proceeding has been initiated, the petitioner may seek his remedy for provisional release of vehicle in question before the District Magistrate, Nalanda at Biharsharif (Respondent No. 2).

This is consistent view of this Court after the judgment of the Hon'ble Bench in the case of **Baleshwar Roy Vs. The State of Bihar** reported in **PLJR 2018 (4) 970**.

Having heard learned counsel for the petitioner and the State, this Court is of the considered opinion that in absence of there being any statement in the writ application with regard to the steps taken by the petitioner for getting release of the vehicle either in the court below or before the confiscating authority as the case may be,

the writ application as prayed for the release of vehicle cannot be entertained. In case any confiscation proceeding has been initiated, the petitioner will have liberty to prefer an application for provisional release of the vehicle



before Respondent No. 2 and on petitioner's filing the said application the Respondent No. 2 shall consider the same and will dispose off within four weeks thereafter keeping in mind the judicial pronouncement of this Court.

If no confiscation proceeding has not been initiated so far, the petitioner may seek his remedy in the court below in terms of Section 451 read with Section 457(2) of the Cr.P.C. On the petitioner seeking such remedy the court below shall consider the application within the aforesaid period.

The writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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