

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24651 of 2018

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Chandani Devi Wife of Rahul Kumar Resident of Village Post- Maranchi,
P.S.- Maranchi, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Home Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Food and Civil Supply, Government of Bihar, Patna
3. The District Magistrate, Patna
4. The Senior Suprintendent of Police, Patna
5. The District Sub- Divisional Police Officer, Barh, Patna
6. The S.H.O. Maranchi P.S. Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Sharma
For the Respondent/s : Mr.S.Raza Ahmad -Aag5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 14-02-2019 Learned counsel for the petitioner submits that in fact, the father-in-law of the petitioner had applied for a wrong remedy by filing an application for release before the learned S.D.J.M, Barh under an impression that it is like any other police case whereas, in fact, it is a case under Section 7 of the Essential Commodities Act and in that circumstance the learned S.D.J.M, Barh could not have entertained an application for release.

In this view of the matter, the order passed by the learned S.D.J.M, Barh in the application filed by the father-in-law of the petitioner is in fact a kind of non-est and cannot be taken as any order in the eye of law.



The petitioner is seeking release of the Tractor bearing registration no. BR-09H-7100 and Trailor bearing registration No. BR01GD-5597 seized in connection with Maranchi P. S. Case No. 28 of 2017 registered under Section 7 of the Essential Commodities Act,1955.

Learned counsel for the petitioner submits that the vehicle in question was seized when it was found loaded with 24 quintals of foodgrains (wheat and rice). The petitioner is said to be the owner of the vehicle in question and is ready and willing to abide by the terms and conditions on which the vehicle may be released in her favour. It is also informed that confiscation proceeding is pending against the vehicle in question before the respondent no. 2.

Learned AC to AAG 5 submits that in the given facts and circumstance, this Court has been passing order of provisional release of the vehicle and the same may be done at this stage without waiting for any counter affidavit.

In the given facts and circumstances of the case, this Court finds that the Tractor and Trailor in question are lying under the open sky for last 21 months and the Confiscation proceeding is pending against the vehicle in question, there is no reason as to why the tractor and trailor may remain under



seizure for any further period.

This Court, therefore, directs release of the tractor and trailer in question on the petitioner furnishing document of ownership and registration in her favour and two sureties to the extent of the value of the vehicle as indicated in the insurance document before the Collector-cum-District Magistrate, Patna. The petitioner shall also give an undertaking that she will not deal with the vehicle in question in any manner whatsoever and shall not create any third party right or interest and further as and when required she will produce the vehicle before the competent court or the authority, as the case may be.

The vehicle be released within one week from the date of furnishing the surety and the undertakings as indicated above. This would, however, be subject to the final order passed in confiscation proceeding.

This application stands disposed off.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

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