

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 9467 of 2019

1. Sushila Devi W/o Ganesh Sao Resident of Mohalla-Gola Road,P.S. and Dist.-Nawada
2. Rajan Kumar S/o Ganesh Prasad Resident of Mohalla-Sonubigha (Gopalganj),P.S. and Dist.-Nawada

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Govt of Bihar, Patna
2. The Collector, Nawada
3. The Block Supply Officer, Roh, Dist.-Nawada

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr N K Agrawal, Sr Advocate with Mr Dhananjaya Nath Tiwari, Advocate
For the Respondent/s	:	Mr Arvind Ujjwal, SC IV

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 23-06-2020 As of now, the Courts have not resumed normal physical hearing. The matter, therefore, has been listed today for consideration through Video Conferencing.

Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings with the aid of audio visual technology.

Heard learned senior counsel for the petitioners and the respondent-State.

This writ application has been preferred for a direction to the respondents to release Tata Magic Van bearing



No BR21GA – 2333 in favour of petitioner No 1 and 42 bags of rice (21 quintals) in favour of petitioner No 2, which have been seized in connection with Nawada (Kadirganj) Police Station Case No 89 of 2019 registered under Section 7 of Essential Commodities Act giving rise to Confiscation Case No 180M of 2019 to the satisfaction of Collector, Nawada.

Learned senior counsel representing the petitioners submits that the Tata Magic Van was carrying rice which is not a controlled item. It is further submitted that in similar matters, a coordinate Bench of this Court in CWJC No 5625 of 2019, relying on decision of the Division Bench of this Court, 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 for last more than one year 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 has opposed the application for provisional release, but is not in a position to deny the decision relied upon by learned senior counsel for the petitioners.



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 42 bags of rice. In several such cases, the Division Bench of this Court has directed provisional release of vehicle 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 petitioner No 1's 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 learned Collector, Nawada. Petitioner No 1 shall also furnish an undertaking that she 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. Petitioner No 1 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.

42 bags of rice (21 quintals) will also be released in favour of petitioner No 2 to the satisfaction of learned Collector, Nawada on furnishing proper surety to the extent of value of the foodgrains in terms of the decision in CWJC No 21150 of 2018



(Annexure 4), within two weeks after submission of surety.

The writ application stands disposed of accordingly.

(Madhuresh Prasad, J)

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