

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6538 of 2020

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Amrish Kumar S/o Ashok Kumar R/o Vill.- Manjhaul, P.S.- Manjhaul, Distt.- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar District Magistrate, Bhagalpur at Bhagalpur.
2. The District Magistrate, Bhagalpur at Bhagalpur.
3. The S.H.O., Kharik P.S., Distt.- Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr.Adv. Mr.Amresh Kumar Sinha
For the Respondent/s	:	Mr.S.Raza Ahmad (AAG-5) Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 23-07-2021 This matter has been taken up for hearing online because of COVID-19 pandemic restrictions.

2. Heard learned counsel for the parties.

3. The petitioner's tanker bearing registration no. BR 09 H 4498 was seized by the police officials on 10.11.2019 on the allegation of the breach of the provisions under the Essential Commodities Act. A criminal case has been registered, giving rise to Kharik P.S. Case No. 285 of 2019. It appears that a confiscation proceeding has been initiated to confiscate the vehicle, which is still pending before the District Magistrate, Bhagalpur.

4. Mr. N.K. Agarwal, learned Senior Counsel



appearing on behalf of the petitioner has submitted that because of the absence of proper upkeep of the vehicle in question, it shall perish, under the custody of the respondent, and, therefore, the Court may direct the authority to release the vehicle, during the pendency of the confiscation proceeding. Under an observation made by this Court, during the course of previous hearing, learned counsel representing the State of Bihar has sought instructions from the District Magistrate, Bhagalpur, where the confiscation proceeding is pending and has informed this Court that next date fixed for hearing of the confiscation proceeding is second of August, 2021.

5. Since confiscation proceeding is pending, this Court exercising jurisdiction under Article 226 of the Constitution of India is not required to pass an order, directing release of the vehicle unless any exceptional circumstance is made out.

6. The petitioner shall, however, be at liberty to approach the confiscating authority and make an application for release of the vehicle, during the pendency of confiscation proceeding on terms and conditions as may be reasonably fixed by the confiscating authority.

7. If any such application for release of the vehicle



is made by 2nd of August, 2021, it is expected that the District Magistrate, Bhagalpur shall consider the same and pass an appropriate orders either on the next date when the hearing is fixed or within the reasonable period.

8. The Court further expects the District Magistrate to conclude the confiscation proceeding as expeditiously as possible.

9. This disposes of the application.

(Chakradhari Sharan Singh, J)

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