

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11652 of 2021

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Kavindra Prasad Son of - Kishori Prasad Resident of Village - Rupaspur,
Police Station- Kudaganj, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Food, 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., Islampur Police Station, Nalanda.
5. The Block Supply Officer, Islampur, Nalanda.

... .. Respondent/s

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(The proceedings of the Court are being conducted by Hon’ble the Chief Justice /Hon’ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences /offices.)

Appearance :

For the Petitioner/s	:	Mr.Jogendra Kumar, Adv
For the Respondent/s	:	Mr.S. Raja Ahmad (AAG5)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 04-01-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief:-

“1.That through this writ application the petitioner seeks kind indulgence of this Hon’ble Court for issuance of appropriate writ(s)/direction(s)/order(s) for release of his Tractor bearing Registration No. BR21K-2369, which has been seized in connection with Islampur P.S. Case No. 112 of 2019 registered under sections 406/420/120B/34 of the Indian Penal Code along with Section 7 of the Essential Commodities Act. ”

It is submitted on behalf of petitioner that he is the owner of the seized vehicle from which 17 quintals of rice and 7.50 quintal of wheat and 360 empty bags on which 'Food Corporation of India' was printed have been recovered for which Islampur P.S Case No. 112 of 2019 was registered for the offences punishable under Sections 406, 420, 120B/34 of IPC and Section 7 of the Essential Commodities Act.

It is further submitted by learned counsel for the petitioner that petitioner himself drives the tractor to earn his livelihood. The PDS dealer namely Ramashray Prasad had hired the Tractor of the petitioner for carrying the food grains and petitioner had no knowledge that the said food grains were being illegally transported from his Tractor.

In the facts and circumstances of the case, **authority concerned/District Magistrate, Nalanda**, is directed to provisionally release the vehicle of the petitioner after due identification of ownership of the vehicle on production of ownership and registration papers with respect to vehicle in question in his name with two sureties (one local) to the extent of the value of the vehicle as indicated in the insurance document.

The petitioner while submitting the sureties shall also

furnish the following affidavits/undertakings:

- (i) That the petitioner shall not indulge in creating any third party right or interest in respect of the vehicle during the pendency of the confiscation proceeding and shall not alienate the vehicle during this period.
- (ii) The petitioner shall furnish an undertaking to produce the vehicle before the confiscating authority as and when required.
- (iii) Prior to release of the vehicle, a Panchanama would be prepared wherein the photograph of the vehicle shall be taken and will be certified by the petitioner and same shall be kept on record so that in future if so required, it may be used as a secondary evidence. The petitioner shall furnish an undertaking not to challenge the said Panchanama.

The release shall be allowed within a period of 14 days from the date of submission of the sureties and the undertakings as stated above, which would however be subject to finalization of the confiscation proceeding.

With said observations and direction, this writ petition is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA