

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20231 of 2021

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Sarfaraz Alam S/o Mahboob Alam, Resident of Dhauabari, P.S.-
Kochadhaman, District - Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Collector, Kishanganj.
3. The Supply Inspector, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dhananjaya Nath Tiwari, Adv
For the Respondent/s : Mr.Arvind Ujjwal (SC4)

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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.)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 08-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“1. That this writ petition is being filed on behalf of the petitioner for direction to release the Kargo 1412 vehicle of the petitioner bearing Registration No. BR37GA3357 in connection with Confiscation Case No. 32/2020 pending before the learned Collector, Kishanganj, on such terms/terms as this Hon'ble court deems fit and proper subject to result of criminal case and the confiscation case.

And/or

The learned Collector, Kishanganj may be directed to dispose off release petition dated 31.08.2020 filed for release of Kargo 1412 vehicle of the petitioner in Confiscation Case No. 32/2020 on furnishing sufficient surety to the learned Collector, Kishanganj, during the pendency of the Confiscation Case which is pending since last more than one year at an early date.”

Allegation is of recovery of 50.30 quintals of boiled rice and 90.30 Quintals of rice giving rise to Kishanganj P.S. Case No. 155 of 2020.

Learned counsel for the petitioner submits that petitioner is the owner of the seized vehicle for which under Section 6(A) of the E.C. Act confiscation case being Confiscation Case No. 32 of 2020 has been initiated by the Collector of Kishanganj.

It is further submitted that petition for release of the vehicle was filed on 31.08.2020 but till date no order has been passed on the said petition.

In the facts and circumstances of the present case, the District Magistrate / Confiscating Authority, Kishanganj is directed to provisionally release the vehicle in favour of petitioner on production of ownership and registration

documents and upon furnishing bank guarantee of the value of insured amount of the vehicle.

The petitioner while submitting the bank guarantee 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 bank guarantee 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