

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.681 of 2021

In
Civil Writ Jurisdiction Case No.19877 of 2019

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Krishna Kumar Son of Gauri Shankar, Resident of Village - Harnaut, Police Station- Harnaut, District- Nalanda. Permanent Resident of Village - Chhota Hasanpur, Khusrupur, Police Station- Khusrupur, District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Food and Civil Supply Department, Govt. of Bihar, Patna.
3. The District Magistrate, Nalanda.
4. The District Supply Officer, Nalanda.
5. The Assistant District Supply Officer, Hilsa, Nalanda.
6. The Sub-divisional Officer, Hilsa, Nalanda.
7. The Station House Officer, Vena (Chandi), Nalanda.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Niranjan Kumar, Adv

For the Respondent/s : Mr.Lalit Kishore (AG)

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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 : 09-02-2022

Heard learned counsel for the appellant as well as

learned counsel for the respondents.

This LPA under Clause 10 of Letters Patent Appeal has been preferred for setting aside the judgment and order dated 01.07.2021 passed in C.W.J.C. 19877 of 2019 (titled as Krishna Kimar Vs. The State of Bihar and Ors) passed by learned Single Judge of this Hon'ble Court whereby writ petition for provisional release of vehicle of the petitioner during confiscation proceeding has been rejected.

Petitioner claims to be the owner of vehicle which he had purchased to earn his livelihood after taking loan and used to ply it for commercial purpose and one farmer Vinay Krishna took his vehicle for transportation of his rice which was seized by the police for offence punishable under Section 7 of the E.C. Act as it is alleged that the vehicle was being used for carrying PDS rice for black-marketing. From contents of FIR, it appears that seizure has been made on the basis of suspicion only and there is no any other material to suggest seized rice to be PDS rice.

It is further submitted that the seized vehicle is the only source of livelihood of the petitioner, which he had purchased on loan and petitioner or his vehicle is not involved in any black marketing, as his vehicle was taken by a farmer on hire for transporting his rice and his vehicle is lying in the police station

since 2018.

For the reasons as stated above, the judgment and order dated 01.07.2021 passed in C.W.J.C. 19877 of 2019 (titled as Krishna Kimar Vs. The State of Bihar and Ors) passed by learned Single Judge is set aside.

District Magistrate/Confiscating Officer, Nalanda is directed to provisionally release the vehicle of 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 and upon furnishing bank guarantee for 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 furnishing of the 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