

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.567 of 2023

Arising Out of PS. Case No.-347 Year-2022 Thana- ALOULI District- Khagaria

Rajesh Kumar Gupta S/O- Madan Prasad Gupta Resident Of Dan Nagar Ward
No 3, Po- Mukhya Dakghar Khagaria Dist- Khagaria Bihar

... .. Petitioner/s

Versus

The state of Bihar through the collector cum District Magistrate,
Khagaria, District- Khagaria Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Prasad, Advocate

For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 05-02-2024 Heard learned counsel for the petitioner and Mr.

Upendra Pratap Singh, learned AC to SC-4 for the State.

2. Petitioner in the present case is seeking the
following reliefs:-

“(i) For quashing the Seizure List whereas the pickup Mahendra Van No.BR-09 GA-8159, four wheeler Diesel Engine Vehicle bearing Chassis No.MA1KC2UEEJ3G69895, Engine No.UJE3G94244 has been seized in connection with Alauli P.S. Case No.347/2022, District-Khagaria dated 29.07.2022 under Section 7 of the E.C.Act, 1955.

(ii) For release of pickup Mahendra Van No.BR-09 GA-8159, four wheeler Diesel Engine Vehicle bearing Chassis No.MA1KC2UEEJ3G69895, Engine No.UJE3G94244 has been seized in connection with Alauli P.S. Case No.347/2022, District-Khagaria dated 29.07.2022 under Section 7 of the E.C.Act, 1955.

(iii) For issuance of a direction to release and hand over the aforesaid vehicle to the petitioner which was seized under Essential Commodities Act.

(iv) For grant of any other relief/reliefs to which

the petitioner may be found entitled to in the facts and circumstances of this case.”

3. Learned counsel for the petitioner submits that the petitioner is seeking release of the vehicle which has been seized loaded with rice. As per the F.I.R. lodged by the Block Supply Officer, Alauli, Khagaria, the vehicle was found loaded with rice and it appeared that the rice were being transported for black-marketing.

4. It is submitted that the vehicle was seized as back as on 29.07.2022 and the same is lying outside the police station unattended and in such a condition that it is losing its road worthiness each and every day.

5. Learned counsel submits that the vehicle which has been seized and of which release has been prayed for is registered in the name of the petitioner. There was no allegation that the petitioner was involved in black-marketing of the rice.

6. No counter affidavit has been filed in this case. Earlier when this matter was taken up for consideration on 04.01.2024, it was adjourned to enable learned counsel for the State to file a counter affidavit clearly stating as to whether any confiscation proceeding has been initiated in the present case and that the counter affidavit shall address all the issues involved in the writ application.

7. Mr. Upendra Pratap Singh, learned AC to SC-4 for the State submits that he has got instruction to say that in this case no confiscation proceeding has been initiated. Learned counsel has further taken a stand that the case of the petitioner would be fully covered by the judgment of this Court rendered in the case of **M/s Ganpati Traders Vs. State of Bihar & Ors.** reported in **2022 (6) BLJ 161**. It is submitted that similar order may be passed in the present case as well.

8. Having regard to the aforementioned stand of the State, this Court directs release of the vehicle in question subject to the petitioner submitting his document of ownership and surety bond (not in cash or bank guarantee) to the extent of the value of the vehicle as per the insurance document to the satisfaction of the District Magistrate, Khagaria. Such release shall be subject to trial or confiscation proceeding, if any, initiated in future.

9. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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