

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.927 of 2023

Arising Out of PS. Case No.-205 Year-2022 Thana- SANGRAMPUR District- Munger

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Ramaiya Ram Son Of Late Mohan Ram Resident Of Village- Sardarpally,
Maingate, Ps- Durgaour, (M. Corp), Distt- Bardhaman (WEST), West Bengal

... .. Petitioner/s

Versus

1. State Of Bihar Through The District Magistrate, Munger Bihar
2. The District Magistrate, Munger Bihar
3. The Sub Divisional Officer, Munger Bihar
4. The Block Supply Officer, Munger Bihar
5. The Superintendent Of Police, Munger Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Abhishek Kumar Srivastava, Advocate
For the Respondent/s	:	Mr.Md. Irshad, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 23-01-2024 Heard learned counsel for the petitioner and the State.

2. Petitioner in this case is seeking a direction to the respondents to release his vehicle i.e. a truck bearing Reg. No. WB-39A 7044 which has been seized in connection with Sangrampur P.S. Case No.205 of 2022 dated 06.08.2022 under Section 7 of the Essential Commodities Act, 1955 pending in the court of learned Sub-Divisional Judicial Magistrate, Munger.

3. Learned counsel for the petitioner submits that the vehicle was seized in the year 2022 and since then it is lying under open sky and is losing its road worthiness day by day. In the meantime, a confiscation proceeding has been initiated by

the District Magistrate, Munger being Confiscation Case No.12 of 2022-23 in which the petitioner has appeared and submitted his reply, however, the confiscation case is still pending.

4. Learned counsel submits that, as per the allegations, the vehicle in question was found transporting government subsidized rice of a total quantity of 476 bags which were meant for distribution amongst the beneficiaries of the various government schemes. It is submitted that with the said allegation, a First Information Report being Sangarampur P.S. Case No.205 of 2022 under Section 7 of the Essential Commodities Act, 1955 has been registered and the said case is still pending after filing of a charge-sheet. In the meantime, the seized rice has been ordered to be sold under memo no.1831/Legal dated 25.05.2023 issued under the signature of the District Magistrate, Munger.

5. Learned counsel submits that if the vehicle in question is not released and is allowed to remain in the present condition it will be of no worth and even in the confiscation proceeding ultimately the State would have no benefit from confiscation of the vehicle.

6. Learned counsel for the State submits that it appears from the records that the petitioner has already appeared

in the confiscation case and a reply has been submitted by him but he has not moved any application for release of the vehicle during pendency of the confiscation proceeding. If any such application is filed by the petitioner, the same may be considered by the District Magistrate at the earliest opportunity and appropriate order shall be passed.

7. Having regard to the facts and circumstances of the case, this Court is of the considered opinion that during pendency of the confiscation case, the petitioner may file an appropriate application before the District Magistrate, Munger seeking release of the vehicle in question on the various grounds available to him. If such an application is filed by the petitioner, the District Magistrate, Munger shall consider the same and pass an appropriate order within a period of 30 days from the date of filing of the application.

8. This Court would observe at this stage that the vehicle has already remained under open sky in completely unsecured condition, therefore, pendency of the confiscation case cannot be a ground for rejecting the application seeking release of the vehicle. Such application shall be considered keeping in view the judicial pronouncements on the subject and the views of the Hon'ble Supreme Court expressed in the

judgment of **Sunderbhai Ambalal Desai vs. State of Gujarat** reported in **(2002) 10 SCC 283** followed by **General Insurance Council and Others Vs. State of Andhra Pradesh and Others**, reported in **2010(6)SCC 768**.

9. If application for release of the vehicle is not considered and disposed of within the aforesaid period, the petitioner may approach this Court.

10. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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