

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56062 of 2015

Arising Out of PS.Case No. -16 Year- 2013 Thana -GOVERNMENT OFFICIAL COMP. District-
GAYA

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1. Shiv Kumar Agrawal Son of Ganauri Prasad Agrawal Proprietor of M/s
Annapurna Dal Mill, Village- Dhanawan, P.s Bodh Gaya,District Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Food Safety Officer, Munger ,Camp Gaya.

.... Opposite Party/s

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with

Criminal Miscellaneous No.56079 of 2015

Arising Out of PS.Case No. -15 Year- 2013 Thana -GOVERNMENT OFFICIAL COMP. District-
GAYA

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1. Shiv Kumar Agrawal son of Ganauri Prasad Agrawal proprietor of M/s
Annapurna Dal Mill, Village - Dhanawan, P.S. Bodh Gaya, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Food Safety Officer, Munger, Camp Gaya.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.56062 of 2015)

For the Petitioner/s : Mr. Gautam Kumar Kejriwal

For the Opposite Party/s : Mr. Anil Kr. Singh No.1 (App)

(In Cr.Misc. No.56079 of 2015)

For the Petitioner/s : Mr. Gautam Kumar Kejriwal

For the Opposite Party/s : Mr. Uma Nath Mishra (App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

2 16-12-2015 Heard learned counsels for the petitioner and the

State.

The same petitioner in the aforesaid two

applications is apprehending arrest in G.O. Case Nos.15 and

16 of 2013 registered for the offences punishable under Sections 59(iii) of the Food Safety and Standards Act, 2006 (hereinafter referred to as the 'Act').

The prosecution report suggests that on 10.12.2011 the business premises of the petitioner namely M/s Anpurna Dal Mill Dhanama, Bodh-Gaya was inspected by the team of informant and three samples of stock viz. Masoor Whole (Sample No. 57/11), Masoor Dal (Final) (Sample No. 35/11 and Masoor Dal (Khada) (Sample No. 49/11 were taken. Subsequently the inspection report was prepared by the Food Safety Officer, Gaya and copy of the same was given to the petitioner. 175 bags of Masoor Dal of fifty kilogram each were also seized. Sample No. 35/11 of Masoor Dal (final) was also forwarded to the Food Analyst, Bihar, Patna. It was found that Masoor Dal (final) was conforming to the prescribed standard of the Act and consequently, 175 bags of Masoor dal were released. The samples of Masoor (whole) and Masoor dal (Khadda) were not found to be conforming to the prescribed standard hence the complaint was filed and consequently cognizance was taken under section 59(iii) of the Act by the learned court below on the ground of alleged violation of Sections 26 and 27 of the Act.

It is submitted by the learned counsel for the



petitioner that the two samples of Masoor (whole) and Masoor dal (Khadda) were unprocessed and they were naturally not conforming to the prescribed standards but even then non-conformation of the two samples to the prescribed standards of the Act does not bring the case within the purview of section 59(iii) of the Act since such failure or contravention has not resulted in grievous injury to any one. This is not the case of the Food and Safety Officer that the raw materials were sold to any one or any injury was caused to any one, hence taking into consideration the totality of things, the case, at best, comes within the purview of section 59(i) of the Act, which warrants maximum punishment for a term which may extend to six months and also with fine which may extend to one lakh rupees.

Learned counsel for the State submits that the samples have not been found in conformity with the prescribed standards of the Act.

Considering the rival submissions of the parties, prima facie, it appears that the present case does not come within the purview of section 59(iii) of the Act. In the circumstances, let the above named petitioner be released on anticipatory bail in the event of arrest or surrender before the

learned Court below within a period of twelve weeks from today on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned CJM, Gaya in connection with G.O. Case Nos. 15 and 16 of 2013 subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Dinesh Kumar Singh, J)

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