

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6894 of 2015

Arising Out of PS.Case No. -547 Year- 2014 Thana -PURNEA SADAR District- PURNIA

=====

Kundan Kumar S/o Late Laxmi Prasad (proprietor of Kunal Roadways),
S/o Shri Poddar Campus, Gulabbag, P.S. - Sadar, District - Purnea.
Permanent Address - Khushrupur, P.S. - Khushrupur, District - Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Dr. Shraddhanand Paswan

For the Opposite Party/s : Mr. A.Dayal (App)

=====

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

8 26-11-2015

Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State assisted by the
learned counsel for the informant.

The petitioner is apprehending his arrest in Sadar
P.S.Case No.547 of 2014 registered for the offences under
Sections 406 and 420 of the I.P.C.

Learned counsel for the petitioner submits that the
petitioner is merely a transporter of the vehicle bearing Truck
No.BR 39-K / 2221.He further submits that the owner of the said
vehicle, namely, Dharmendra Kumar had leased the said truck
vide Agreement No.22377 / 2014 dated 29.8.2014 to Vikash
Kumar Karn for plying the vehicle. The petitioner being the

transporter hired the said vehicle for the use of his transport business.

Learned counsel for the petitioner further submits that the aforementioned truck which was being plied by the said Vikash Kumar Karan was loaded with maize seeds belonging to the informant and was sent from Purnea to Bhawanipur but the aforementioned seeds did not reach its destination from where the informant started search and informed the transporter. No sooner the transporter learnt that the truck in question had not reached its destination with the goods loaded thereon, he started making enquiry and tracing the whereabouts of the said driver but having failed in his efforts, he lodged F.I.R. on 25.10.2014 against the driver and conductor of the truck and another accused persons which is Annexure-2. It is further submitted that the informant, however, after saddling the liability on the shoulders of the petitioner did not take any step for filing any case against the said Vikash Kumar Karn to whom the goods had been entrusted by him on 20.10.2014. The petitioner submits that he as transporter made all efforts to locate the driver Vikash Kumar Karn who appeared to have vacated his house and shifted to another place It is only because the petitioner had hired the vehicle of one Dharmendra Kumar who had given the truck on lease to Vikash Kumar Karan which was being used by the petitioner as one of many vehicles in

his transport business, that the petitioner is apprehending his arrest for loss of the goods of the informant.

Learned counsel for the petitioner further submits that ultimately the vehicle was found in the empty state near Signe Hotel at Gulab Bagh and whereabouts of the truck driver could not be located.

Learned counsel for the informant submits that the entrustment of the goods was to the transporter and not to the driver in question and, therefore, he must face the consequence of any loss occasioned by him. However, the explanation offered by the informant with regard to delay in filing of the present F.I.R. stands unexplained, as even though the petitioner had lodged his first information report with regard to the action of the driver of the concerned vehicle, no steps were taken by the informant to lodge any F.I.R. against the concerned accused persons.

Considering the nature of allegation made against the petitioner, his efforts to locate the driver of the vehicle who had taken away the goods in question and also the fact that the said Dharmendra Kumar who was transporter has already been granted anticipatory bail by the court below, let the petitioner, abovenamed, in the event of his arrest or surrender before the court below within four weeks from today, be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like

amount each to the satisfaction of the C.J.M., Purnea, in connection with Sadar P.S. Case No.547 of 2014 subject to the conditions as laid down under Section 438(2) of Cr.P.C.

(Anjana Mishra, J)

AnilKrSinha/-

U		T	
---	--	---	--