

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6347 of 2013

Arising Out of PS.Case No. -275 Year- 2012 Thana -FATUHA District- -

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1. Mukesh Kumar Nandan S/O Brij Nandan Prasad Resident Of Mohalla-
Bakerganj, Nandan Bhawan, Police Station- Pirbahore, District- Patna-
800004

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Adv.

For the Opposite Party/s : Mr. T.N.Thakur (APP)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

6 16-04-2015 Supplementary affidavit filed on behalf of petitioner
has been kept on record.

Heard learned counsel for the petitioner as well as
learned APP for the State.

On getting confidential information, a raid was
conducted by the Food Inspector and 25 Tins of Ghee each
containing 15 Kgs was seized from a tempo belonging to one
Madhusudan Prasad and the sample of Ghee was obtained and in
likewise manner, the establishment of petitioner was raided and
303 Tins of ghee each containing 15 Kgs, weighing machine,
empty steel jars were seized. Sampling was also made relating to
Ghee. Because of the fact that the aforesaid establishment was
running without license, on account thereof, the informant has
apprehension with regard to violation of Section 31 of the Food

Safety and Standards Act, 2006 as well as Ghee has been shown to be hazardous on account thereof, Sections 272 and 273 of the IPC has got application.

From the case diary, it is apparent that both the samples were examined. The first one relates to cream at page no. 29 of the case diary while other relates to Ghee at page-30 of the case diary. After detailing the contents, it has been found as sub-standard. However, it has not been specified as hazardous to the life.

‘Hazardous’ has been defined under Section-3 (u) as means of biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect.

It has been submitted on behalf of the petitioner that the seized Ghee happens to be in the form of primary food which was yet to be processed. Therefore, even if, it has been found sub-standard, does not require prosecution because of the fact that it was yet to be processed and to be allowed to go to the market for the purpose of consumption by the consumers. Apart from this, referring Annexures-2 and 3 series, it has been submitted that petitioner happens to be a licensee granted by a competent authority.

Learned APP has not controverted the same.

Consequent thereupon, Petitioner, Mukesh Kumar

Nandan, in the event of his arrest/surrender within four weeks, is directed to be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of Additional Sessions Judge-XI, Patna in connection with Special Case No. 10A/2012 arising out of Fatuha P.S. Case No. 275/2012, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Aditya Kumar Trivedi, J)

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