

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11777 of 2015

Arising Out of PS.Case No. -14 Year- 2015 Thana -PURNEA SADAR District- PURNIA

1. Om Prakash Singh S/o Late Durga Prasad Singh resident of Mohalla
Srinagar Hata, P.S.- K. Hat, District- Purnea

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.13935 of 2015

Arising Out of PS.Case No. -14 Year- 2015 Thana -PURNEA SADAR District- PURNIA

1. Sanoj Kumar S/o Shivjee Paswan Resident of Village Budhanpur, P.O.
Mubarakpur, P.S. Barh, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

with

Criminal Miscellaneous No.14311 of 2015

Arising Out of PS.Case No. -14 Year- 2015 Thana -PURNEA SADAR District- PURNIA

1. Dinesh Kumar Eklavya Son of Ganouri Prasad Singh Resident of Village
- Bhatubigha, Police Station - Ghosi, District - Jehanabad, at present
A.G.M. State Food Corporation C.M.R. Garhabanaili Shishawari Godown,
Police Station - Kasba, District - Purnia.
2. Dharmesh Kumar Thakur @ Dharmesh Kumar Son of Late Sachidanand
Thakur Resident of Village - Saidpur, Police Station - Gopalpur, District -
Bhagalpur, at present A.G.M. State Food Corporation / C.M.R.
Garhabanaili/Shishabari, Purnia, Police Station - Sadar, District - Purnia.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

with

Criminal Miscellaneous No.16341 of 2015

Arising Out of PS.Case No. -14 Year- 2015 Thana -PURNEA SADAR District- PURNIA

1. Lal Babu Jaiswal Son of Achche Lal Jaiswal, Resident of Chandan

Nagar Gulabbagh, Police Station - Sadar, District - Purnea.

..... Petitioner/s

Versus

1. The State of Bihar

..... Opposite Party/s

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with

Criminal Miscellaneous No.19532 of 2015

Arising Out of PS.Case No. -14 Year- 2015 Thana -PURNEA SADAR District- PURNIA

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1. Prabhakar Ghosh @ Prabhakar Kumar Ghosh S/O Sri Purusotam Ghosh
resident of Mohalla- Line Bazar, Shaktinagar, P.S.- K. Hat (Sahayak),
District- Purnea.

..... Petitioner/s

Versus

1. The State of Bihar

..... Opposite Party/s

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with

Criminal Miscellaneous No.21716 of 2015

Arising Out of PS.Case No. -14 Year- 2015 Thana -PURNEA SADAR District- PURNIA

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1. Ram Charitra Yadav son of late Rameshwar Yadav resident of village
Barha Benipatti P.S, Benipatti District Madhubani
2. Shyam Kishore Gupta son of late Ram Kishun Prasad Sah resident of
village Ankuri P.S. Paliganj District Patna

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

Appearance :
(In Cr.Misc. No.11777 of 2015)
For the Petitioner/s : Mr. Diwakar Prasad Singh
For the Opposite Party/s : Mr. Parmeshwar Mehta(App)
(In Cr.Misc. No.13935 of 2015)
For the Petitioner/s : Mr. Rana Baljit Singh
For the Opposite Party/s : Mr. R.B. Roy Raman (App)
(In Cr.Misc. No.14311 of 2015)
For the Petitioner/s : Mr. Rajesh Kumar Pandey
For the Opposite Party/s : Mr. H.A.Khan(App)
(In Cr.Misc. No.16341 of 2015)
For the Petitioner/s : Mr.
For the Opposite Party/s : Mr. H.A. Khan (App)
(In Cr.Misc. No.19532 of 2015)
For the Petitioner/s : Mr. Chandra Shekhar Anand
For the Opposite Party/s : Mr. Aditya Narayan Singh - 1(App)

(In Cr.Misc. No.21716 of 2015)

For the Petitioner/s : Mr. Ravindra Kumar Choudhary

For the Opposite Party/s Mr. Ashok Kumar Singh (App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

10/ 15-10-2015

1. All the above stated petitions were taken enbloc as the said petitions arise out of Purnea Sadar P.S. Case no. 14/2015 registered under sections 406, 407, 409, 420, 467, 468, 471, 120B of the Indian Penal Code, section 7 of the Essential Commodities Act and accordingly, the above stated petitions were heard together.

2. Heard learned counsel for the petitioners as well as learned Addl. Public Prosecutor for the State.

3. The above named petitioners apprehend their arrest in connection with the above stated case and accordingly, approached this court under section 438 of the Code of Criminal Procedure.

4. According to the prosecution case, on the direction of the District Magistrate, Purnea, godowns of the Food State Corporation were inspected by SDM and other officials and it came to light that between 29.12.2014 to 30.12.2014, petitioner in Cr. Misc. no. 11777/2015 lifted 9720 bags from the godown CMR Shishawari to transport the same at different godowns but the aforesaid bags of rice were not reached to its destinations and, allegedly, 9180 bags of rice were misappropriated. The enquiry team found involvement of all the above stated petitioners in the alleged crime.

5. Learned counsel for the petitioner in Cr. Misc. no. 11777/2015 submitted that, as a matter of fact, petitioner was transporter and he did not lift even a single bag of rice. It was further



contended on behalf of the aforesaid petitioner that officials of the Corporation committed the alleged crime making false entry in relevant documents. To fortify the aforesaid contention, he drew my attention towards annexures of Cr. Misc. no. 11777/2015 highlighting this fact that names of the drivers and other relevant entries were made by a single person and in some of the documents, names of the drivers had been left to be entered. It was further contended by him that, as a matter of fact, forged signatures were made on the relevant documents as the issuance register was in possession of the concerned official.

6. Learned counsel for petitioner in Cr. Misc. no. 13935/2015 submitted that, at the relevant time, petitioner was not posted as Assistant godown manager and he had no concern with the work of lifting or receiving grains rather he was posted as quality controller. To fortify the aforesaid contention, he drew my attention towards annexure 2 to the supplementary affidavit. He also pointed out that the above stated petitioner was made accused in Kasba P.S. Case no. 11/2015 with similar accusation but a coordinate bench of this court granted privilege of anticipatory bail to the aforesaid petitioner in the above stated case vide order dated 23.09.2015 passed in Cr. Misc. no.13833/2015.

7. Learned counsel for petitioners in Cr. Misc. no. 14311/2015 submitted that bags in question were lifted on the direction of the District Manager, State Food Corporation, Purnea and the aforesaid petitioners being assistant godown managers were duty bound to release the bags in question in the light of the order given by the District Manager, Purnea. It was further contended on behalf of

the aforesaid petitioners that documents available on the record revealed that bags were lifted by transporter and other accused.

8. Learned counsel for petitioner in Cr. Misc. no. 16341/2015 submitted that the aforesaid petitioner is truck owner and allegedly, truck of the aforesaid petitioner used in carrying bags of rice and, therefore, even if the above stated accusation assumed to be true, then also, petitioner can not be roped in this case as the work of the petitioner was only to carry the bags of rice as per direction of the transporter as well as officials.

9. Learned counsel for petitioner in Cr. Misc. no. 19532/2015 submitted that this petitioner was neither employee of State Food Corporation nor connected with transporter and it is stated that this petitioner was found working illegally in the concerned godown but no specific overt-act has been attributed against this petitioner.

10. Learned counsel for petitioners in Cr. Misc. no. 21716/2015 submitted that petitioners are said to have been assigned to work of lifting bags of rice from the concerned godowns and, as a matter of fact, after lifting bags of rice, same were handed over to transporter and, therefore, petitioners can not be made liable for missing bags of rice.

11. Learned Public Prosecutor appearing for the State vehemently opposed the prayer submitting that it is a serious case of defalcation of rice of State Food Corporation and in course of enquiry, involvement of almost all petitioners was found by the Enquiry officer and, therefore, petitioners do not deserve the privilege of anticipatory



bail.

12. Taking note of the aforesaid submissions as well as facts and circumstances, prayer for anticipatory bail of petitioner in Cr. Misc. no. 16341/2015, namely, Lal Babu Jaiswal, and petitioner in Cr. Misc. no. 19532/2015, namely, Prabhakar Ghosh @ Prabhakar Kumar Ghosh is allowed and accordingly, it is ordered that in the event of arrest/ surrender within four weeks from the date of receipt of this order to the concerned court, let the petitioner in Cr. Misc. no. 16341/2015, namely, Lal Babu Jaiswal, and petitioner in Cr. Misc. no. 19532/2015, namely, Prabhakar Ghosh @ Prabhakar Kumar Ghosh be released on bail on furnishing bail bonds of Rs 10,000/- each with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Purnea in Purnea Sadar P.S. Case no. 14/2015 subject to condition as laid down under section 438(2) of the Cr.P.C.

13. So far as prayer for bail of rest petitioners is concerned, the same stands rejected.

14. However, if these petitioners surrender and seek regular bail within four weeks from the date of receipt of this order to the concerned court, the concerned court shall pass order on the regular bail applications of the petitioners on its own merit without being prejudice by this rejection order.

15. In the aforesaid manner, all the above stated petitions stand disposed of.

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(Hemant Kumar Srivastava,J)