

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41586 of 2015

Arising Out of PS.Case No. -209 Year- 2015 Thana -KARAHGAR District- SASARAM (ROHTAS)

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Jai Shankar Prasad son of Late Govind Prasad, resident of village- Babhani,
P.S. Kargahar, Rohtas.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kumar Uday Singh

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

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 07-10-2015 Heard learned counsel for the petitioner Mr. Kumar Uday
Singh and learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with
Kargahar P.S. Case No. 209 of 2015 registered for offences
alleged under Sections 406, 379 and 411 of the Indian Penal Code.

The prosecution case is that on the basis of a written
information of one Surendra Kumar Singh, Sub-divisional
Agriculture Officer, Sasaram (Rohtas) to the Officer-in-charge
Kargahar P.S. in his written information the informant has alleged
as follows:-

- I. He received a letter no. 523 dated 07.05.2015 from
the District Agriculture Officer, Rohtas (Sasaram)
informing that M/s Sai Khad bhandar, Babhani was
involved in black-marketing of Urea Fertilizer and

that he should make a search at the godown of the agency.

II. In the view of the aforesaid direction, on 25.06.2015 a search was conducted at the godown of the agency and it was found that the godown was full of bags containing fertilizer and it was not possible to count the bags. Hence, vide memo no. 139 dated 25.06.2015 a letter was sent to the owner of the agency/shop to show cause as to why he was keeping fertilizer illegally and selling the same. By the said letter he was further asked to keep the fertilizer safely. However, no reply to the show cause was filed by the owner of the shop/agency.

III. On 06.07.2015 at 11 p.m. the informant received information that Jai Shankar Prasad (petitioner) with the intention of black-marketing, had loaded the fertilizer bags into a tractor and was sending it away. He therefore informed the Officer-in-Charge of the Kargahar P.S. as well as the Block Agriculture Officer, Kargahar.

IV. Later at 11.45 p.m. in the night a search was conducted at the shop of the accused and it was found

that there were two tractors loaded with 158bags of Chand Brand Urea.

V. Since, the fertilizer was outside the shop, a seizure list was prepared. Hence, it is apparent that the accused inspite of his direction (informant's) to keep the fertilizers as it is, the accused in violation of his order, in connivance with the tractor drivers, was trying to sell the 158 fertilizer bags loaded on the tractors.

VI. The two drivers who were later caught disclosed their names as (1) Suresh Kahar @ Surendra Singh & (2) Dharmendra Sharma.

It has been submitted by the petitioner that he is proprietor of M/s Sai Khad Bhandar and a licence holder of fertilizer which has been granted for the period of three years beginning from 19.09.2013 as placed at Annexure-2 of this application. It has further been submitted by the counsel for the petitioner that on a letter sent by the District Agriculture Officer on 07.05.2015 that the petitioner was indulging in black-marketing of Urea and on the basis of the said a search was conducted on 25.06.2015 after more than two months in the godown of the petitioner and a show-cause notice was issued. The show cause notice specifically stated that



Section 7(1)(a)ii) of the Essential Commodities Act has been contravened and the stocks have not been properly accounted. Thereafter, on 06.07.2015, i.e. after more than ten days, a search was conducted and the petitioner was found with two tractors loaded with 158 bags of Chand Brand Urea. Learned counsel for the petitioner submits that he is a licenced dealer of fertilizer and if at all, no case under Section 406, 379 and 411 of the Indian Penal Code is made out as he is a licensed dealer and has not indulged in black-marketing. It has further been submitted by the counsel for the petitioner that the owner of the tractor and purchaser of the Urea was being carried by the purchaser who had filed an application before the Chief Judicial Magistrate for release of the said tractor and urea respectively. It has further been submitted that the petitioner has clean antecedent and no offence under the Essential Commodities Act much less under Sections 406, 379 and 411 of the Indian Penal Code has been made out against him.

In such circumstances, let the petitioner, namely, Jai Shankar Prasad in the event of his arrest / surrender within a period of four weeks from today before the Court below, is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each

to the satisfaction of the learned Chief Judicial Magistrate,
Sasaram, Rohtas, in connection with Kargahar P.S. Case No. 209
of 2015 subject to the conditions as laid down under Section
438(2) of the Cr. P.C.

(Nilu Agrawal, J)

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