

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36368 of 2014

Arising Out of PS.Case No. -27 Year- 2014 Thana -AGIAUN BAZAR District- BHOJPUR

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Bihari Lal S/o Late Devi Dayal Sah, Resident of Village Kothua, P.S.
Agiaon Bazar, District Bhojpur at Ara.

.... Petitioner/s

Versus

The State of Bihar

... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr. Advocate.
Mr. D.N.Tiwari, Advocate.

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

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 20-02-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Section 7 of the Essential Commodities Act against the petitioner wherein he is said to have misappropriated/defaulted the amount with regard to proceeds of 75 bags of rice, while this Court was not inclined to grant anticipatory bail to the petitioner, Mr. N.K.Agrawal, learned senior counsel appearing on behalf of the petitioner, submits that the petitioner has already suffered by way of cancellation of licence on account of alleged present criminal case and, therefore, the petitioner should be allowed to do his business by giving the privilege of anticipatory bail. He also submits that the petitioner, for the time being, without questioning the correctness of the allegation made against him, would deposit

the sale proceeds of 75 bags of rice @ 1575/- per quintal in two equal monthly instalment, but then the petitioner should be directed to be released on provisional bail subject to payment of first instalment within four weeks from today.

Considering all these aspects, this Court would direct that if the petitioner, namely, Bihari Lal surrenders within a period of four weeks from today, the court below shall release the petitioner on provisional bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Bhojpur at Ara in connection with Agiaon Bazar P.S.Case No. 27 of 2014, subject to the following terms and conditions:

- (i) The petitioner will pay half of the price of 75 bags @ Rs. 1575/- per quintal and the court below either on such payment of cash or by demand draft, will direct for release of the petitioner on provisional bail for a period of four weeks.
- (ii) The petitioner shall then deposit the rest of the amount in the next four weeks whereafter the provisional bail of the petitioner shall be confirmed.

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- (iii) The amount, so deposited by the petitioner, shall be kept fixed either in a nationalized bank or in post office, which shall remain subject to the outcome of the trial.
 - (iv) That both the bailors will be close family relative of the petitioner, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the court if there is any change in the address of the petitioner.
 - (v) That the affidavit shall clearly state that the petitioner is not accused in any other case and if he is, he shall not be released on bail.
 - (vi) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.
 - (vii) That the petitioner will be well represented on each and every date in course of trial and if he

fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

Sujit/-

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