

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49872 of 2015

Arising Out of PS.Case No. -213 Year- 2015 Thana -KHIJARSARAI District- GAYA

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Ashok Das Son of Baleshwar Das Resident of Village - Mandal, P.S.-
Khizersarai, District - Gaya, at present P.D.S. Dealer in Nawdiha Gram
Panchayat, Khizersarai Block, District - Gaya

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya

For the Opposite Party/s : Smt. Anuradha Singh (APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 09-11-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under Sections 7 of the Essential Commodities Act, this Court, on perusal of the show-cause notice dated 17.7.2015 followed by written report dated 28.7.2015 leading to institution of criminal case, would not be inclined to grant privilege of anticipatory bail to the petitioner for a simple reason that the authorities of the Supply Department upon receipt of complaint of gross discrepancies committed by the petitioner in food grains to ration card holders in course of sudden inspection of the shop of the petitioner, a dealer under Public Distribution System on 13.7.2005, had found that the entire stock lifted by the petitioner on 8.7.2015 to the tune of Rs. 66.03 quintal of rice and 44.02

quintal of wheat, was claimed to have already been distributed by the petitioner in just four days.

Learned counsel for the petitioner in fact has pressed the prayer for anticipatory bail on two grounds, namely, that there is no provision of such show-cause notice under the E.C. Act or under the control order and that the date on which a sudden inspection i.e. on 13.7.2015 at 3 PM was not only being Monday a closure day but, in fact, beyond the working hours fixed under the concerned control/unified licensing order.

In the considered opinion of this Court, in fact, all these grounds may not be good enough to make the criminal case against the petitioner unsustainable either on fact or in law for a simple reason that the petitioner cannot deny that there was a sudden inspection in his shop i.e. business premises and, in course of such inspection, the authorities had seized the records of the petitioner, namely, distribution register, stock register (Bhandar Panji) which were found to have no entry of the disposal of more than 110 quintals of food grains in just four days and thus giving a prima-facie impression of the petitioner making the entire allotted food grains to disappear within a period of four days by indulging into black-marketing.

At this stage, this Court has to only see as to whether

the allegation against the petitioner is absolutely false and baseless so as to make out a case of anticipatory bail and it is not going to look into the defence of the petitioner that those persons, whose names have been mentioned in the First Information Report with regard to short supply or other irregularity committed by the petitioner, as a P.D.S. dealer, have subsequently sworn an affidavit in favour of the petitioner that no such anomaly was committed by the petitioner or that the petitioner's licence has already been cancelled.

Thus, for the reasons indicated above, this Court will not be inclined to grant privilege of anticipatory bail to the petitioner.

Accordingly, the prayer for anticipatory bail of the petitioner, namely, Ashok Das is rejected.

(Mihir Kumar Jha, J)

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