

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.41118 of 2015

Arising Out of PS.Case No. -263 Year- 2014 Thana -MALSALAMI District- PATNA
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1. Prem Prakash Sinha, S/o- Late Bisheshwar Prasad, R/v- Pakki, Gourya Mogalpura, P.S.- Khajekallah, Distt.- Patna.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha
For the Opposite Party/s : Mr. Surendra Kumar(App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

5 04-02-2016

Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Malsalami P. S. Case No. 263 of 2014, G.R. No. 3419 of 2014 registered for the offences punishable under Sections 420, 406 of the I.P.C.

The prosecution case instituted on a written statement of the informant, Jagjot Singh, who is Director of Indian Career Pvt. Ltd Company Ltd and as an agent looking after the warehouse of I.T.C. Company Ltd., since 1998 for which he received service charge. The petitioner is Manager of the Cigarette division of the warehouse of I.T.C. Company since, 1998

On 01.10.2014, auditor Chaupalya and Company audited the accounts of the Cigarette division of the warehouse. On 06.10.2014 the said auditor was replaced by one Avishek Agrawal and after audit, the account was found correct. On

13.10.2014 again when the audit of the Godown was made by said Abhishek Agrawal, it was found that 218 Boxes, 15 utter C.F.C. Cigarette cartoon were less which amount worked out at cost of Rs. 1,14,05,035/- (Rs one Crore fourteen lacs five thousands thirty five) only.

The informant verbally informed Incharge of I.T.C. Company then again on 17.10.2014 the audit was done and 218 boxes, 15 utter CFC cigarette cartoons was found to be less in the Cigarette Division godown managed by the petitioner. When the petitioner was enquired by the informant as to how this discrepancy occurred, he had no answer. It was stated that the keys of the Godown is with the petitioner and he is Incharge of all the articles. The informant suspected that the petitioner being the Godown Manager has sold the Cigarette in the market and embezzled the huge amount.

It has been submitted by the learned counsel for the petitioner that he is innocent, has no criminal antecedent and has been working as a Godown Manager of the warehouse of the I.T.C. Company of the Cigarette Division since 1998 and there was no allegation of any sort against him earlier before.

On the other hand learned counsel for the informant as well as learned A.P.P. for the State submits that the allegation against the petitioner is serious in nature and discrepancy has been found as per the Audit report. It has further been submitted that the informant in his re-statement has also made allegations

against the petitioner and various paragraphs of the case diary, i.e. paras 18, 36 and 45 of driver and other dealers shows that there was some involvement of the petitioner.

However, learned counsel for the petitioner submits that the matter relates to discrepancy in stocks as pointed out by the auditor during audit of accounts and stocks and the said discrepancy has to be tallied with accounts and stocks to arrive at a definite finding. It has also been submitted that the matter relates to civil liability and does not attract criminal element.

Under such circumstances, let the petitioner namely Prem Prakash Sinha, in the event of his arrest or surrender before the Court below within a period of six weeks from today be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned A.C.J.M., Patna City in connection with Malsalami P.S.Case No. 263 of 2014, G.R. No. 3419 of 2014, subject to the conditions as laid down under Sections 438 (2) of the Cr. P.C.

This order will be operative till the charge sheet, if any is submitted against the petitioner and after submission of the chargesheet, the petitioner is at liberty to avail his remedy before the competent Court of law.

(Nilu Agrawal, J)

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