

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21569 of 2013

Arising Out of PS.Case No. -86 Year- 2011 Thana -TEDHAGACHH District- KISANGANJ

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1. Vijay Narayan Sinha, S/o Birendra Narayan Sinha, resident of Village-
Sirnia, P.S.- Terhagach, District- Kishanganj

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari--Advocate

For the Opposite Party/s : Smt. Renuka Ratnakar (A.P.P.)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 08-03-2016

Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor.

Petitioner has challenged the order dated 10.10.2012
passed by the Adhoc Additional Sessions Judge, F.T.C.-4,
Kishanganj in Sessions Trial No.604 of 2012 arising out of
Terhagach P. S. Case no.86 of 2011 whereby and whereunder the
learned lower Court declined to discharge the petitioner in terms
of Section 227 of the Cr.P.C. and instead thereof, transmitted the
record to the learned Chief Judicial Magistrate, Kishanganj for
proceeding with the trial observing that a case under Section 7 of
the Essential Commodities Act is made out as provided under
Section 228(1)(a) of the Cr.P.C.

Although, in the written report, there happens to be
absence of quantity of the fertilizer seized by the informant and

further, having absence at the end of the petitioner to place seizure list with regard thereto even though, it has been submitted by the learned counsel for the petitioner that from Column-9 of the format of the formal F.I.R., there happens to be disclosure with regard to seizure of 43 bags which, again is found confusing in the background of the fact that it did not disclose the weight of each of the bag.

Be that as it may, the State Government vide Notification No.5/F-45-90-8970 dated 17.10.1992 made relaxation and further, allowed storage and sale of fertilizer to the extent of ten metric tonnes without having license.

The learned lower Court, with the assistance of learned counsel for the petitioner as well as State, will trace out subsequent notification, if any, withdrawing the above referred notification and in case of absence thereof, will pass appropriate order taking into account the liberty so granted therein in consonance with the quantity of the seizure of the fertilizer.

With the aforesaid observation, instant petition is disposed of.

(Aditya Kumar Trivedi, J)

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