

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32013 of 2016

Arising Out of PS.Case No. -25 Year- 2016 Thana -BHAPATIYAH I District- SUPAUL

Subhash Kumar Sah @ Subhash Sah Son of Girdhar Sah, resident of village- Kodhali, Police Station- Bhaptiyahi, District- Supaul.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun, Adv.

For the Opposite Party/s : Mr. Ram Bilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

5 28-09-2016 Heard both sides.

The petitioner apprehends his arrest in Bhaptiyahi P.S. Case No. 25/2016, registered for the offences punishable under Section 7 of the Essential Commodities Act.

The Block Supply Officer, Saraigarh, Bhaptiyahi intercepted a vehicle bearing registration no. BR11S6149 on which 29 bags of wheat of P.D.S. shop dealer Sanjay Mehta were being carried. The informant enquired from the P.D.S. shop dealer Sanjay Mehta and the driver (petitioner), but they did not give any satisfactory answer. They were produced before the Officer-Incharge Bhaptiyahi and on the statement of the informant present case has been registered under Section 7 of the E.C. Act.

Learned counsel for the petitioner submits that petitioner

was not arrested by the police rather he was let off under Section 41 of the Cr.P.C., but from perusal of the record as well as show-cause filed by the S.H.O. Uday Bahadur, it appears that Sanjay Mehta the vehicle owner was apprehended and arrest memo was sent to the court. The S.H.O. did not produce any order of the court refusing the remand of the accused, but in the garb of order the petitioner was let off under Section 41 of Cr.P.C. The S.H.O. has got no power under Section 41 Cr.P.C. to grant bail to any accused

Considering the facts aforesaid and the fact that the petitioner was earlier arrested, the anticipatory bail petition is not maintainable. Accordingly, the same is dismissed.

(Prabhat Kumar Jha, J.)

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