

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40946 of 2016

Arising Out of PS.Case No. -31 Year- 2016 Thana -MEERGANJ District- PURNIA

1. Ajay Kumar Gupta Son of Nathhi Lal Gupta R/o Kali bari Road, PS
Katihar town, District Katihar.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Adv.
Mr. (Dr.) Bidhu Ranjan

For the Opposite Party/s : Mr. Parmeshwar Mehta

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 04-10-2016 Heard learned Senior Counsel for the petitioner
and learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail,
arises out of Mirganj Police Station Case No. 31 of 2016,
disclosing offences under Sections 272, 273, 420, 120B of
the Indian Penal Code, Sections 26 (i) (iv)/31 of the Food
Adulteration Act and Section 6 (A) (B) of the COTPA Act.

Allegedly, a pick-up van, carrying total 16 bags,
containing 6000 packets, marked with M branded chewing
tobacco and 240 bags, containing 12000 packets of Madhu
was recovered. The driver is said to have disclosed the
name of the petitioner from whose godown the said articles
were loaded.



Learned Senior Counsel, appearing on behalf of the petitioner, has submitted that his implication is based on the disclosure made by the driver of the said pick up van and there is no other material against the petitioner beyond that. He has further submitted that even if the allegations are treated to be true, no offence under Sections 272 or 273 of the Indian Penal Code is made out. According to him, strictly speaking, the petitioner cannot be prosecuted under the provisions of the Food and Adulteration Act, in view of the Division Bench decision of this Court, in the case of **M/s Omkar Agency and Others v. The Food Safety and Standards Authority of India and Others**, reported in **2016 (3) PLJR 667**.

Considering the above submission, this application is allowed.

Let the petitioner, Ajay Kumar Gupta, in the event of his arrest or surrender before the Court below within six weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Purnea, in connection with Mirganj Police Station Case No. 31 of 2016, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bond shall be liable to be cancelled.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-c

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