

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19367 of 2016

Arising Out of PS.Case No. -114 Year- 2016 Thana -KHAGARIA District- KHAGARIA

=====

Anil Kumar Srivastava, the then Incharge Assistant Godown Manager,
Khagaria, son of Sri Shivanand Srivastava, resident of village- Rasalpur,
P.S.- Naya Gaw, District- Saran

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Manager, Bihar State Food Corporation, Khagaria

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Bharat Bhushan, Adv.
For the F.C.I. : Mr. Shailendar Kumar Singh, Adv.
For the Opposite Party/s : Mr. Nirmal Kumar Sinha (App)

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

6 27-07-2016 Heard both sides.

The petitioner apprehends his arrest in Khagaria (Chitragupta Nagar) P.S. Case No. 114/2016, registered for the offences punishable under Sections 406, 409, 420 of the Indian Penal Code.

It is alleged that the petitioner was the then Incharge Assistant Godown Manager, situated in Bazar Samiti, Khagaria and he purchased 4808.50 quintals of wheat. The wheat was to be transported to the godown of F.C.I. Purchase was made in the financial year 2011-12, the petitioner received S.I.O vide annexure

2, but the petitioner did not transport the aforesaid wheat to the godown of the F.C.I and the petitioner allowed the wheat stored in the godown to deteriorate. The stored wheat was to be auction sold and the F.C.I. incurred loss of Rs. 43,89,802/- due to negligence of the petitioner.

It is submitted that petitioner is the then Assistant Godown Manger. He purchased and stored the entire wheat in the godown situated in Bazar Samiti, the petitioner wrote letter to the authority for transportation to the godown of F.C.I, but the authority did not pay any heed. He also informed the authority about the condition of the wheat which was starting deteriorated, but no attention was paid and ultimately, the stored wheat was auctioned at a lesser price of Rs. 521 per quintal.

It is submitted that although the petitioner did not commit any negligence, but at best no misappropriation or defalcation was done by him. The case has been lodged on 17.02.2016 while the petitioner retired on 31.07.2015. On similar allegation, petitioner was made accused in Chautham P.S. Case No. 35/2012 and the petitioner had already been enlarged on anticipatory bail vide order passed in Cr. Misc. 46630/2012.

On the other hand, learned counsel for the S.F.C opposed the prayer for anticipatory bail of the petitioner and



submitted that it was the petitioner who is responsible for transportation of wheat from the godown of S.F.C. to the godown of F.C.I., but the petitioner did not take any proper action and on account of his willful negligence the condition of wheat deteriorated causing loss of more than Rs. 43,00,000/- to the S.F.C., but the learned counsel for the S.F.C. did not produce any letter to show that the petitioner was directed to transport the wheat from the godown of S.F.C. to the godown of F.C.I., whereas, the petitioner vide annexure 7 reported the District Magistrate for up-keepment of the wheat. Similarly, vide annexure 16 at page 40 it would appear that since the condition of wheat deteriorated the entire wheat weighing 10308.50 quintals was auction sold at lesser price.

Considering the facts aforesaid and the fact that petitioner did not commit any negligence, but at best no misappropriation or defalcation was done by him, the petitioner above-named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Khagaria in

connection with Khagaria (Chitragupta Nagar) P.S. Case No. 114/2016, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Prabhat Kumar Jha, J.)

Vinita/-

U		T	
---	--	---	--