

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11628 of 2016

Arising Out of PS.Case No. -616 Year- 2013 Thana -SAMASTIPUR MUFFASIL District-
SAMASTIPUR

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Ram Shresth Sharma, Son of Late Sri Fakira Mistri, Resident of Village-
Laxmipur, P.S- Sakra, District Muzaffarpur Ex-Incharge of P.C.D.O. of
Bihar Rajya Bhandar Nigam, Samastipur.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Uday Prakash Sharma, Advocate

For the Opposite Party : Mr. Parmeshwar Mehta (App)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI
ORAL ORDER

5 01-09-2016 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor.

On an earlier occasion by order dated 01.07.2015,
the prayer for anticipatory bail having made on behalf of petitioner
was rejected (Annexure-1). Subsequently thereof, it happens to be
second attempt having made on behalf of petitioner for grant of
anticipatory bail. To substantiate such plea by way of
supplementary affidavit, the finding of the departmental
proceeding has been brought up and on the basis thereof, it has
been submitted that the inconsistency as is found duly exposed
after conjoint reading of the written report in consonance with the
outcome of departmental proceeding clearly suggests that for

extraneous consideration, petitioner has been involved in this case.

Furthermore, it has been submitted that there happens to be not an allegation of defalcation relating to any of the godown rather it happens to be with regard to shortage of 2230 bags of the DAP. To explain the same, it has been submitted that from the annexure of the written report (charge-report), it is evident that with regard to handing over of charge of godown nos. 1, 2, 3, 5 and 8, no shortage has been detected even with regard to IFFCO DAP having at sl. no. 3 of the charge-report. Then thereafter, remains only one godown and for that, it has been submitted that though petitioner happens to be overall incharge but as per office notification no. 01 dated 01.02.2011 (Annexure-5) different P.C.D.O. were identified and entrusted with direct involvement being custodian of the godown, and in the aforesaid background, petitioner cannot be held responsible. Apart from this, to substantiate that no defalcation as disclosed in the written report is found, Annexure-6; photocopy of the stock register has been placed. Apart from this, it has also been submitted that as per Annexure-8, there happens to be full and complete details of disbursement-received by different persons relating to D.A.P. fertilizer. So, it happens to be prayer on behalf of the petitioner that he has been victimized whereupon he be allowed to avail the

privilege of anticipatory bail.

The learned Addl.P.P. opposes the prayer and submitted that in para 5 of the case diary, place of occurrence has been detailed, happens to be godown near Jitwarpur block office. There is absence of numbering and on account thereof, it is difficult to ascertain its number. Further submitted that the officials having been examined under paras 34 and 35 have substantiated the case of the prosecution whereupon petitioner is not at all entitled for anticipatory bail.

Petitioner, being Manager of the Bihar State Warehousing Corporation of Samastipur Branch is not denied. It is also not denied that he was transferred from Samastipur to Buxar. It is also not denied that without handing over the charge, he left the place. Subsequently thereof, as is evident from the charge-report dated 07.09.2013, he had handed over the charge of only godown nos. 1, 2, 3, 5 and 8. He had not handed over the charge relating to all godowns. Furthermore, there happens to be an application having in pen of petitioner dated 07.09.2013 itself that as he has been made an accused in different cases and police is behind him, therefore, he is unable to hand over the charge. However, he also disclosed that at an initial stage he began to hand over the charge to Mukeshwar Sharma; his successor-in-office



right from 13.02.2013 and continued up to 07.09.2013. Had there been sincere effort at the end of the petitioner, the charge might have been handed over before his departure from the station apart from the fact that even consuming such a long period of 07 months, he failed to hand over the charge of all the godowns. It is also apparent that nowhere it has been disclosed with regard to presence of godowns eight in number or more than that though petitioner in his supplementary affidavit had claimed that only eight godowns were available. Even accepting the same, charge relating to only five godowns were handed over on 07.09.2013. Therefore, the charge relating to three godowns of which neither the quantity, nature of the fertilizer have been disclosed nor it has been pleaded that charge relating to aforesaid three godown were handed over. Contrary to it, it is evident from the annexure of the FIR that on request, the D.M. authorized a Magistrate to prepare inventory after breaking the lock, which was done, and then the factum of shortage of 2230 bags of DAP came to light.

That being so, there happens to be no reason for deflecting myself from the view which I have already taken at an earlier occasion. Consequent thereupon, the instant petition for anticipatory bail stands rejected.

From the conduct of the petitioner as well as after going through the case diary, it is apparent that petitioner has been given free hand or he managed so. It is apparent from the fact that this case being of the year 2013 have put no barrier upon the activity of the petitioner who, till today has not appeared before the learned Lower Court. That being so, petitioner is directed to surrender before the learned Lower Court within fortnight with a prayer for regular bail which the learned Lower Court consider and decide in accordance with law without being influenced by the order impugned.

(Aditya Kumar Trivedi, J.)

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