

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30932 of 2017

Arising Out of PS.Case No. -1 Year- 2016 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

- =====
1. Om Prakash Dhanuka, S/o Late Purshottam Lal Dhanuka, Chairman cum Managing Director, Riga Sugar Company Ltd. (Distillery Division), R/o Dhanuka Gram, P.O. & P.S.-Riga, District-Sitamarhi.
 2. Peeyush Kotia, S/o Late R.C. Kotia, Chief General Manager, Riga Sugar Company Ltd. (Distillery Division) R/o Dhanuka Gram P.O. & P.S.-Riga, District- Sitamarhi
 3. Uday Shankar Dwivedi, S/o Sri Rishidev Dwivedi, Senior General Manager, Riga Sugar Company Ltd. (Distillery Division) R/o Dhanuka Gram, P.O. & P.S.-Riga, District-Sitamarhi.

.... Petitioner/s

Versus

1. State of Bihar
2. The Bihar State Pollution Control Board, Parivesh Bhawan. N.S.B-2 through Suresh Prasad Roy, Assistant Environmental Engineer, Patliputra Industrial Area, N.S.B-2, P.S. Patliputra, District-Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri
Mr. Ashish Giri
For the Opposite Party/s : Smt. Binita Singh
For the State : Mr. Ram Bilash Roy Raman

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

2 06-07-2017 Heard Mr. Y.V. Giri Senior counsel for the
petitioners, Mr. Raman APP for the State.

The petitioners are apprehending arrest in connection with Complaint Case no. C2-01 of 2016 for the offence under Section 43 and 44 of the Water (Prevention and Control of Pollution) Act 1974 pending in the court of C.J.M., Sitamarhi.

The petitioners are Managing Director, Chief General Manager and Senior General Manager of Riga Sugar Company



Ltd. (Distillery Division). The said Riga Sugar Mill produces Ethanol from Molasses, a by-product of sugar mill and Ethanol is produced in distillery plant by biological and chemical process including dilution and fermentation of Molasses, and then distillation of the fermented wash. In these processes, waste effluent called spent wash is generated which is a highly polluted effluent in nature. This effluent is required to be treated efficiently. The polluted effluent, rather any type of effluent of a distillery plant should not be discharged into any stream or well or sewer or on land. But the company violated the aforesaid terms and conditions and untreated effluent was being discharged into the Manushmar a river which is located just adjoining the distillery plant premises through a underground drain passing behind the officers quarter. Two fisher men were found fishing in the said river and they told that polluted effluent are discharged generally during night hour and sometimes during day hour as well which leads to death of fishes in the river. The team inspected the same and found the same allegation true. The further allegation against the petitioners is that the distillery plant was also found defaulter by the Central Pollution Control Board, Delhi in 2015 for which statutory closure direction was issued under Section 5 of the Environment (Protection) Act, 1986. The



Central Board, subsequently, issued a revised directions dated 30.10.2015 to the distillery plant including spent wash/spent was contaminated effluent or any other effluent not be discharged into the river or on land no outlet should be there to maintain zero liquid discharge. Thus, the accused persons are discharging and or abetting the discharge of polluted water into the Manushmar river in an illegal manner and against the terms and conditions of the Board issued for pollution control and therefore, they have committed the offence punishable under Sections 43 and 44 of the Water (Prevention and Control of Pollution) Act, 1974.

Having heard learned counsel for the petitioners as well as APP and also on going through the annexures as also the order's of Additional Sessions Judge-I, I find that no independent witness or any fisher men has been cited in the prosecution report who allegedly supported the prosecution version. In complaint petition not a single farmer has been cited who made any complaint against any of the petitioners. From the report of National Sugar Institute Kanpur, it appears that the sampling was not properly done. The said institute found that there was no correlation between the values of BOD and COD. The samples were collected from various places of the stream in the light of the observation at serial 2. The petitioners further annexed the report



of Dr. N. Singh In-charge Medical Office, P.H.C. Riga to this effect that there has been no report of water borne skin disease to the people in the village situated on the bank of Manushmar river for last two years. The petitioners have further annexed the order of Bihar State Pollution Control Board to show that the Board vide order dated 12.01.2017 has given consent/clearance to the petitioners. It further appears that the petitioners have challenged the competency of the informant in lodging the case. According to the petitioners, the present case has been filed by unauthorized persons as according to Section 49 (1)(a) of the Act mandates that no court shall take cognizance of offence under the Act except a complaint made by the Board or any officer authorized in this behalf by the Board. The petitioner no. 1 has filed a Cr. Misc. no. 6785 of 2017 for quashing the order dated 19.11.2016 whereunder the learned C.J.M. has taken cognizance of offence against him. The order taking cognizance is subjudice before this Court and further proceeding of Complaint Case no. 01 of 2016 has been stayed with regard to petitioner no. 1 as per order dated 19.05.2017.

Considering the facts and circumstances of the case, the anticipatory bail prayer of these petitioners are allowed. . The petitioners above named, in the event of arrest/surrender within



four weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate Sitamarhi in connection with Complaint Case no. C2-01 of 2016, subject to the condition as laid down under Section 438(2), of the code of Criminal Procedure.

(Sanjay Kumar, J)

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